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Part III

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National Oil and Hazardous Substances Pollution Contingency Plan; Final Revision

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1510

National Oil and Hazardous Substances Pollution Contingency Plan; Final Revision

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Final Revision of National Contingency Plan.

SUMMARY: These final revisions to the National Oil and Hazardous Substances Pollution Contingency Plan update the Plan to conform to the Clean Water Act amendments of 1977 and restructure the Plan to eliminate duplication and simplify reading. Substantive changes include: (1) Increasing State participation in the Plan, (2) provision for the preparation of local contingency plans, (3) incorporation of the National Pollution Equipment Inventory System, (4) provision for Scientific Support Coordinators, (5) provision for periodic field testing, and (6) clarification of the application of the Endangered Species Act. These changes are designed to improve the efficiency, coordination and effectiveness with which Federal agencies respond to discharges or substantial threats of discharges of oil and hazardous substances.

EFFECTIVE DATE: March 19, 1980.

FOR FURTHER INFORMATION CONTACT: Foster Knight, Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006, (202) 395–5750, or Richard Hess, EPA-Coast Guard Liaison, Headquarters, U.S. Coast Guard, C–WEP/73, Washington, D.C. 20590 (202) 426–9571.

SUPPLEMENTARY INFORMATION:

A. Purpose

We are publishing final revisions to the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR 1510 (as amended March 26, 1976). The Plan is the basis for Federal action to minimize pollution damage from discharges of oil or hazardous substances. The purpose of these revisions is to update the Plan and improve the efficiency, coordination, and effectiveness with which Federal agencies respond to a discharge or substantial threat of discharge of oil or a hazardous substance. We expect the revised regulations to improve planning by and coordination among State and Federal agencies, to improve assessment of environmental damage from spills and to facilitate evaluation of response effectiveness.

B. Summary of Changes Made by the Final Revisions.

1. *Changes to make the Plan track with the Clean Water Act amendments of 1977.*—See particularly §§ 1510.3, 1510.21. Following the Clean Water Act amendments of 1977, the regulations modify the scope of the Plan (§ 1510.3) to include the expanded economic zone of the Fishery Conservation and Management Act of 1976. The revisions apply the Plan to potential as well as actual discharges (§ 1510.21(b)).

2. *Increasing the role of state participation in the Plan.*—(a) States are invited to participate as full members of Regional Response Teams (RRTs). Full participation of high level state representation is desired. See § 1510.23(a) and § 1510.34 (a) and (f).

(b) Section 1510.23(b). EPA and the U.S. Coast Guard should explore the possibility of entering into agreements with states which will delegate to the state spill cleanup responsibilities.

(c) Section 1510.34 (m), (n) and (o). Provisions for RRT members (including state members) to appeal decisions of the RRT to the National Response Team (NRT) and to request further review by CEQ.

3. *Local Contingency Plans.*—The revised Plan makes provision for local contingency plans for dealing with spills in ports or local areas.

Sections 1510.36(d) and 1510.42 provide that the On-Scene Coordinator (OSC) is responsible for developing and maintaining a local contingency plan for the OSC's area of responsibility. Local plans must identify: (1) Environmentally sensitive areas, (2) most probable locations for pollution incidents, (3) the kinds of resources that would be needed to respond to spill incidents, (4) where such resources can be obtained, (5) plans of action for protecting vulnerable resources, (6) sites for disposing recovered oil and hazardous substances, and (7) a local organizational structure for spill response.

To aid the development of local contingency plans, § 1510.34(d) provides that RRTs must designate members to assist the OSC in local contingency planning.

4. *National Pollution Equipment Inventory System.*—The revised Plan in § 1510.43 incorporates a national inventory of equipment and resources available for oil and hazardous substance spill response.

5. *Scientific Support Coordinators.*—The revised Plan provides a mechanism for coordination between the On-Scene Coordinator (OSC) and the scientific community during spills. Such a mechanism is necessary in order to provide the OSC with sound scientific advice in an orderly way, so that the OSC does not have to devote scarce time to a number of different scientists who are concerned about providing cleanup advice and conducting experiments during spill cleanup operations.

Section 1510.64(c) establishes a scientific support organization headed by Scientific Support Coordinators (SSCs) who are designated by EPA for inland spills and by NOAA for coastal area spills.

6. *Annual Field Exercises.*—The revised Plan makes provision for periodic field testing by the RRTs of their spill response equipment and people.

Section 1510.34(h) requires each coastal RRT to conduct annual training exercises in which equipment is actually deployed.

Section 1510.34(i) strongly encourages each inland RRT to conduct annual training exercises.

7. *Changes Reflecting Requirements of the Endangered Species Act.*—The revised Plan specifically discusses the relationship between spill response and cleanup actions and the requirements of legislation protecting endangered or threatened species.

Section 1510.36(a)(3) provides that advice to the OSC provided by DOI through the Fish and Wildlife Service or by Commerce through the National Marine Fisheries Service on the cleanup of spills that affect endangered species, shall be binding on the OSC (with specified exceptions).

8. *Public Information.*—The previous Plan provided for dissemination of public information in Annex VI.

The revised Plan moves the provisions of Annex VI to new § 1510.37. In addition, changes are made to make the Plan conform to the existing public information network.

9. *Restructuring Plan for Easier Reading.*—The previous Plan contained considerable useful information buried in its Annexes.

The revised Plan shifts this more important material into the body of the Plan. The revisions also add new Annex material (new Annexes II, VI and VIII). See attached comparison of Previous Plan and Revised Plan.

In addition, the revisions eliminate duplicative material and rewrite some provisions to achieve clarity and to make minor corrections of outdated Plan information.

Previous Plan	Revised Plan
Annex I (Distribution)	Remains the same.
Annex II (N.R.T. functions)	NRT functions are in § 1510.32.* (Annex II—Formats For Regional and Local Contingency Plans.)
Annex III (National Response Center functions).	NRC functions are in § 1510.33. (Annex III—Regions and Office Locations of Agencies.)
Annex IV (Office Locations of Primary Agencies).	Office locations are in Annex III. (Annex IV—Legal Authorities.)
Annex V (Communication and Reports).	Reports are in § 1510.56.* (Annex V—Communication Services Available.)
Annex VI (Public Information)	Public information is in § 1510.37.* (Annex VI—Sample Collection Procedures to be followed by OSCs.)
Annex VII (Legal Authorities)	Legal Authorities are in Annex IV. (Annex VII—Technical Library.)
Annex VIII (Documentation and Cost Recovery).	Documentation and Cost Recovery are in § 1510.55. (Annex VIII—Definition of Technical Terms.)
Annex IX (Funding)	Funding is in § 1510.65. Annex IX (blank).
Annex X (Schedule of Chemicals and Additives For Removal of Oil and Hazardous Substances).	Remains the same.
Annex XI (Non-Federal Interests).	Non-Federal Interests are in § 1510.23.
Annex XII (blank)	
Annex XIII (blank)	
Annex XIV (blank)	
Annex XV (Technical Library and Definitions of Technical Terms).	Technical Library is in Annex VII; Definition of Technical Terms is in Annex VIII.

*Denotes new annex material.

C. Background

The Plan was first published as an interagency agreement in 1968. It became part of the Code of Federal Regulations in 1970 in accordance with the Water Quality Improvement Act of 1970. Section 311(c)(2) of the Clean Water Act gives the President the responsibility for issuing the Plan. By Executive Order 11735 (August, 1973), this responsibility was delegated to the Council on Environmental Quality (CEQ). In 1973 the Plan was published in its current format. The version that is being revised by these final regulations was publish in 1975 with some minor changes incorporated in 1976.

A number of events over the past two years have identified opportunities for improving the Plan. In late December 1976, the *Argo Merchant* ran aground on Nantucket Shoals, 27 miles from Nantucket Island, Massachusetts. The resulting spill of 7.5 million gallons of oil led to a massive spill response action under the National Contingency Plan. Although the weather conditions exceeded technological capabilities for recovery of the oil, those same conditions meant that no oil reached the Massachusetts shoreline. In April 1978, Massachusetts submitted a Petition for Rulemaking to revise the Plan, asking for specific changes. In addition, a spill of 250,000 gallons earlier in the year resulted in massive shoreline damage on the Chesapeake Bay as 27 miles of coastline were contaminated by the oil.

On June 3, 1979 the worst oil spill in history began with the blow-out of IXTOC No. 1, a well being drilled in the Bay of Campeche by PEMEX, Mexico's national oil company. Estimates of the oil spilled ranged from 10,000 to 30,000 barrels per day. Efforts to plug the well were unsuccessful and drilling of two relief wells began. By late July, 1979 cleanup efforts were only partially successful at best despite the efforts of Mexican authorities, the U.S. Coast Guard's Open Water Containment Recovery System and cleanup firms from around the world. Towards the end of the summer of 1979 huge oil slicks moved north and threatened the Texas coast. The U.S. Coast Guard and Texas authorities prepared to try to protect the highly productive estuaries behind the string of barrier islands on the south Texas coast and to mitigate damage to beaches and the tourist industry. Oil from the spill ultimately reached the south Texas coastline affecting a large geographical area and a multitude of local and regional interests. Response efforts however were moderately successful in mitigating damage.

As a result of such incidents and continuing United States dependency on oil imported by tanker, attention from various levels of government has been continually focused on the response capabilities of the federal government.

Congressional subcommittees have investigated both the response to specific incidents and the general federal scheme for coordinated action. In response to these events and as part of its responsibility to recommend changes, proposed revisions have been submitted to CEQ by the national Response Team, the national group of federal agencies responsible for planning and coordination under this Plan.

Some problems were also addressed in the Clean Water Act amendments of 1977 (Pub. L. No. 95–217 amending 33 U.S.C. 1251 *et seq.*) which changed the jurisdiction of the Plan. The revision of the Plan reflects these statutory changes.

The revised Plan also addresses other problems noted in the course of response actions. In October 1977, CEQ requested information from the States on problems they had encountered in activities under the Plan. Twenty-seven states responded, generally expressing satisfaction with the Plan but offering suggestions for improvements.

The Council published proposed revisions to the National Contingency Plan on May 14, 1979 (44 FR 28196) with 60 days for public review and comment. This comment period was extended upon request until September 1, 1979. The Council received comments from the oil industry, independent waterways operators, state, regional, and local governments and miscellaneous interested parties, totalling 29 written comments. In addition the regional offices of the principal federal agencies provided a number of technical comments.

The Council's staff read and analyzed each of the comments received and developed recommendations were then presented to the National Response Team for further evaluation and recommendations. Finally comments raising significant issues together with staff and National Response Team recommendations for appropriate changes were presented to the Council for resolution.

When, after discussions and review the Council determined that the comments raised valid concerns, the Plan regulations were modified to reflect those concerns. When the Council determined that reasons supporting the Plan provisions were stronger than those for changing them, the Plan provisions were left unchanged. Part D of the Preamble describes the more significant comments received and how the Council responded to them.

D. Comments and the Council's Response

Comments on Section 1510.5—Definitions

One comment objected to the definition of "oil" in § 1510.5, to the extent it includes oil in combination with other substances, as being too vague and imprecise. The Council however determined not to change the definition as it repeats verbatim the definition of "oil" in § 311(a)(1) of the Clean Water Act.

Several comments were critical of § 1510.5(r)(1)'s definition of a minor discharge of a hazardous substance as "a quantity less than that defined as reportable by regulation (40 CFR Part 117)." The comments expressed concern that this definition was inconsistent with EPA's hazardous spills regulations where the enumerated substances are considered hazardous if a quantity equal to or greater than the "reportable quantity" is spilled. The purpose of the Plan is to provide for removal of oil and hazardous substances even in cases where no liability attaches to the discharger. There are many instances where the quantity of hazardous substances spilled cannot be accurately

determined. A definition of minor discharge which excludes less than reportable quantities will discourage efforts to remove such spills. For these reasons, the Council determined not to change the definition of minor discharge of hazardous substances.

The comments also recommended establishing a practical lower limit in the definition of a minor oil spill such as California's 10 gallon limit. The Council determined however that the existing definition in § 1510.5(r)(1), "less than 1000 gallons", is working well and should not be changed.

Comments on Section 1510.21—Federal Responsibility

Some comments pointed out that the proposed language for § 1510.21(a) did not adequately reflect § 311(c)(1) of the Clean Water Act by omitting the modifier "substantial" before "threat." Section 311(c)(1) specifies Federal response actions where there are discharges or a "substantial threat" of such discharge. The Council agrees with these comments. Since this problem was presented in other parts of the proposed revisions, the Council is correcting it by changing the definition of "potential discharge," in § 1510.5(n), to mean "any accident or other circumstance which constitutes a substantial threat of a discharge of oil or hazardous substance." Thus, subject to § 311(c)(1), Federal responsibility exists for discharges and potential discharges. These changes address these same comments with respect to §§ 1510.21(b), 1510.53(a), and 1510.63(b).

Comments on Section 1510.36(b)—On-Scene Coordinator

A number of companies and organizations involved in the carriage of bulk petroleum and chemicals in inland waters requested that § 1510.36(b) be changed to provide that the U.S. Coast Guard (rather than the Environmental Protection Agency) furnish or provide the On-Scene Coordinator for all navigable waters of the United States which are used by waterborne commerce. The principal reasons given in support of this change are: (1) that the Coast Guard is already required to be involved in inland waterway discharges in order to evaluate compliance with pollution prevention regulations and to evaluate penalty assessments, and (2) that it would be an unnecessary duplication of federal agency resources to have the EPA act as On-Scene Coordinator for inland waterway spills. Furthermore EPA's capability to act quickly as the On-Scene Coordinator was questioned by some commenters.

The National Response Team which has overall operational and implementing responsibility for the National Contingency Plan recommended that § 1510.36(b) not be changed because in certain inland waterway regions EPA provides the most effective On-Scene Coordinator, while in others (where the Coast Guard is the most effective), EPA normally predesignates the Coast Guard to serve as the inland waterway OCS. The National Response Team therefore recommended that the existing flexibility in allowing both the EPA and the Coast Guard to be On-Scene Coordinators for inland waterways (depending on the circumstances) is preferable to a fixed rule assigning only the Coast Guard to that function. Based on the National Response Team's experience and recommendations, the Council therefore determined to leave § 1510.36(b) unchanged.

Some commenters expressed concern that the proposed revisions to the Plan (particularly § 1510.36(a)(3) with respect to compliance with the Endangered Species Act and with respect to the use of chemical dispersants governed by Annex X) diminished the On-Scene Coordinator's authority and effectiveness to respond quickly to a spill. These commenters requested that § 1510.36(a)(3) and Annex X be changed to eliminate restrictions on the OSC's authority.

Section 1510.36(a)(3) provides that advice to the On-Scene Coordinator provided by the Fish and Wildlife Service (Department of the Interior) or by the National Marine Fisheries Service (Department of Commerce) on cleanup actions that may affect endangered species shall be considered at all times and be binding on the On-Scene Coordinator unless in the OSC's judgment contrary actions must be taken to protect human life. The Council does not regard this provision as a new limitation on the OSC's authority to act but rather as an incorporation of the requirements of the Endangered Species Act which, since 1973, has applied to all activities of federal agencies and responsible federal officials. In essence, this provision is designed to assist the OSC to comply with the Endangered Species Act, through the expertise of the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS), in circumstances where cleanup actions may affect endangered species. Whenever the OSC determines that certain actions must be taken to protect human life, the OSC's judgment will prevail over FWS or NMFS advice to the contrary. For these reasons the Council determined to leave this part of § 1510.36(a)(3) unchanged. Annex X is modified to include a cross-reference to § 1510.36(a)(3). These changes do not affect the OSC's authority to use chemical dispersants such as to substantially reduce explosion or fire hazards to property where there is no threat to endangered species.

With respect to the use of chemical dispersants covered by Annex X, several commenters recommended that the On-Scene Coordinator be provided with authority to allow the spiller or his agents to use *registered chemical dispersants* in *offshore areas* for protection of sensitive environmental or commercial fishery areas without the concurrence of the EPA representative on the Regional Response Team. The National Response Team carefully considered this request but concluded that the continuing involvement of EPA representatives before use of chemical dispersants outweighs any benefits to be derived by allowing the spiller to use dispersants in such areas without advance EPA concurrence. The Council adopted the National Response Team's recommendation with respect to this issue. However, it is the intent of the Plan that the EPA Regional Response Team member continue to work closely with the Coast Guard On-Scene Coordinators to provide greater guidance—in advance of spills—on the circumstances that justify use of chemical dispersants.

Several commenters felt that the priorities of the Plan were insufficiently spelled out and recommended that the primary goals of a spill response be (1) to protect human life and limb and (2) to minimize ecological impacts of spills. The National Response Team believes that these priorities are inherent in the Plan and are already covered in § 1510.36(a)(3) and Annex X. The Council agrees with the NRT and that On-Scene Coordinators have adequate explicit guidance on these priorities.

One comment recommended that § 1510.36(a)(1) be clarified to provide that the first official from an agency with responsibility under the Plan to arrive at the scene of a discharge is to function as acting OSC (if other than the predesignated OSC) until the OSC arrives. The NRT determined that § 1510.36(a)(1) already is sufficiently clear on this point by providing that the first official to arrive on scene "shall coordinate activities under the plan until the OSC arrives." "Shall coordinate activities" includes authority to act as OSC.

Comments on Section 1510.37—Public Information Network

Several comments expressed concern that proposed § 1510.37(b) establishes a regional news office as the "single source of official information on the incident", to the detriment of the public interest in obtaining information from public agencies and private interests. Section 1510.37 has been substantially rewritten, and eliminates the regional news office as the single source of official federal information. As rewritten § 1510.37 provides for coordination of news releases through the OSC, through an on-scene news office or a national news office. Participating federal agencies are given a larger role in the public information network. At the same time, information from private interests on a pollution incident remains unaffected by § 1510.37 or any other provision in the Plan, because the Plan cannot regulate the manner or content of information on a pollution incident provided by private interests. To provide for greater coordination with local government a new sentence is added to § 1510.37(a)(1): [When a major pollution incident occurs] "Those immediately capable, especially local fire, police and government officials, will be contacted first so that they may use all available resources to notify the public of a potential threat."

Comments on Section 1510.42—Local Contingency Plans

One comment recommended that local contingency plans also include development of methods for protecting environmentally sensitive areas. This is addressed in § 1510.42(a) (plans of action for protecting vulnerable resources).

Comments on Section 1510.43—National Inventory System

One comment suggested that standard indemnification agreements be entered into between the Federal government and private parties whose cleanup equipment is listed in the inventory such that owners will be indemnified for any damage that may occur when the equipment is used at the direction of the On-Scene Coordinator. The NRT recommended that indemnification for damaged private equipment need not be addressed in the Plan because private equipment used by the OSC is obtained through rental or other contractual agreements which contain adequate indemnification provisions. The Council therefore deferred to the expertise of the NRT on this issue.

Comments on Section 1510.63—General Pattern of Response Actions

One comment objected to the sentence in § 1510.63(a)(3)(i) which provides "The discharger's removal efforts are 'improper' to the extent that Federal efforts are necessary to prevent further damage." The comment expressed concern that this language prevents or discourages a discharger from seeking Federal removal assistance where Federal assistance would speed the discharger's otherwise "proper" removal actions. The comment misconstrues § 1510.63(a)(3)(i). That section does not mean that otherwise "proper" removal actions by the discharged are rendered improper simply because the discharger seeks Federal assistance.

Comments on Section 1510.64—Special Forces

Several comments were received concerning this section. The State of Washington felt that this section duplicated and conflicted with its own oil and hazardous spills contingency plan provisions governing marine resources damage assessment. Section 1510.64 has been substantially revised based on NRT recommendations and the comments received. With respect to the State of Washington's comment, § 1510.64(c)(2)(i)(aa) makes it clear that well developed state scientific support organizations like Washington's should be employed to support the OSC. Section 1510.64 is not to be construed as requiring the development of duplicatory federal scientific support coordinators where an effective state scientific support organization can be utilized to support the OSC, as coordinated by the state representative on the Regional Response Team.

One commenter recommended changing the title of Scientific Support Coordinator to Scientific Support Advisor. However the NRT believes that Scientific Support Coordinator more accurately reflects the role of the scientific support organization which involves advice to the OSC and RRT but is primarily a coordination role. For this reason the title was not changed.

Another comment recommended that the discharger be advised of the scope of studies to be undertaken by the scientific support organization and be offered an opportunity to comment on its potential liability. The Plan recognizes, as the comment points out, that the line between damage assessment studies (where there may be liability) and pure research (where there is no liability) is difficult to draw. However this problem is addressed in revised §§ 1510.65 (b) and (c) which make it clear that the OSC is to exercise sufficient control over removal operations (including damage assessment) to be able to certify that reimbursement is appropriate.

Concern has also expressed that proposed § 1510.64(c)(1) "would seemingly exclude contractual agreements with commercial environmental firms" to provide scientific assistance and damage assessment for the OSC. This was not the intent, and § 1510.64(c)(2)(i)(aa), as rewritten, expressly includes industry.

Comments on Section 1510.65—Funding

Several comments were received critical of the proposed language in § 1510.65(c). The concern expressed by these comments was that the proposed language implied that the OSC would not be requesting services and resources where essential to an effective Federal response. The Council agrees that the indicated language in proposed § 1510.65(c) was inappropriate. Therefore the last three sentences in proposed § 1510.65(c) were removed and conforming changes were made to the last sentences in § 1510.65(b) and 1510.65(c).

Other Comments

The Commonwealth of Massachusetts urged that the Plan provide for the financial capability of the participating agencies in carrying out the Plan, through an annual assessment of funds available to each agency. The Plan is not authorized to require annual assessments. In response to this comment, however, § 1510.65 relating to funding has been changed to clarify each agency's funding authority and responsibility. Massachusetts also indicated that proposed § 1510.64(c) providing for scientific support coordinators from both EPA and NOAA was a costly redundancy. Section 1510.64(c) has been modified but still preserves the SSC role for EPA in inland waters and for NOAA in coastal waters because the NRT determined this allocation of agency expertise would be the most effective.

The New England Congressional Caucus recommended provision in the Plan for requiring spill cleanup equipment to be stationed near areas of probable spills. The NRT recommended that rather than stationing equipment the most efficient approach is to maintain an up-to-date national inventory and to provide in local contingency plans for the identification of types and locations of clean-up equipment and resources. The Council adopted the NRT recommendation. The

Caucus also recommended that the Atlantic Strike Team be redeployed to an area to the northeast of its present location. Deployment decisions are within the jurisdiction of the U.S. Coast Guard. The Council has therefore referred this recommendation to the U.S. Coast Guard.

The International Association of Fire Chiefs expressed concern that the Plan unduly and excessively interfered with local agency authority to control and supervise spill response efforts, particularly with respect to responses by local fire and civil defense officials. A number of changes were made in response to this criticism in order to highlight the importance of coordination with local officials and to emphasize that the Plan covers only the Federal response. See §§1510.23(a), 1510.34(f), 1510.36(d), 1510.37(a)(1) and 1510.42(a). Concern was also expressed that §1510.57(a) authorizes the OSC to keep the fire chief and civil defense officials out of the affected area. That section is not intended to give the OSC such authority. Local contingency plans, particularly with the cooperation of local fire and civil defense officials, are to be developed in a manner consistent with local fire and disaster plans and requirements. See §1510.42(a).

One comment recommended expansion and clarification of the Plan concerning the relationship between a responsible discharger (a discharger who is taking proper action to clean up the spill) and the Federal government. The comment recommended coverage of at least four points which are listed below with responses:

(1) What is the continuing role of the OSC if the discharger is in charge of the clean up operation? This question is addressed by §§1510.21(a) and 1510.52(c) which provides that the OSC has a continuing responsibility to monitor clean up actions being taken by the discharger and to provide advice.

(2) Does the OSC continue as the government spokesman for all levels of government? This is addressed in the affirmative by §§1510.5(k) (definition of OSC), 1510.21(a) and Section 1510.52(c).

(3) How is government support and assistance obtained by the discharger (e.g. scientific support)? This is addressed by §§1510.52(c), 1510.63(a)(3), 1510.63(b)(3)(ii) and 1510.64. The OSC's monitoring and surveillance duties includes providing advice and assistance to dischargers concerning proper cleanup and removal actions. Dischargers are encouraged to seek scientific support advice through the OSC on matters not already covered by this Plan and annexes, and the applicable regional and local contingency plans.

(4) How are relations with the news media and public handled? Section 1510.37 provides for relations with the news media and for public information where there is a Federal response to a spill under the Plan. The Plan, of course, cannot govern the manner or content of information provided by the discharger. Where the discharger retains control of the cleanup and removal actions, the public information and news media provisions in §1510.37 will not apply; they only apply where a Federal response is initiated under this Plan.

For the reasons given above, and because the NRT does not believe any significant problems exist in the relationship between the discharger and the Federal government that are not already addressed in the Plan, the NRT recommended that no additional provisions be added to the Plan concerning these points. The Council deferred to the NRT's recommendations.

Several comments from the oil industry recommended that the Plan require the RRT to send copies of their activity reports (under §1510.34(g)(9)) to the oil industry. These reports are available to the public; the American Petroleum Institute representative attending NRT meetings as an observer will be able to obtain copies of such reports and provide for appropriate distribution to the oil industry.

One comment recommended deletion of the term "Coker Feed" in Annex VIII as being inaccurate. This recommendation was adopted.

E. Additional Changes Based on Federal Interagency Comments and NRT Recommendations

Following publication of the proposed revisions to the National Contingency Plan federal agency review resulted in a number of additional changes of essentially a clarifying nature. These are summarized below.

The distinction between Federal primary and advisory agencies under the Plan has been eliminated since over a period of time it has become meaningless. All Federal agencies under the Plan are now referred to as participating agencies. See §§1510.5, 1510.22, 1510.32.

Provisions governing referrals and appeals of decisions by the Regional Response Teams have been clarified. See §§1510.2(10), 1510.32 (m) and (n).

Descriptions of Federal agency expertise and roles under the Plan have been further updated. See §§1510.4, 1510.22(b), 1510.64(c), and Annex III.

Section 1510.37 concerning the public information network has been substantially revised both in response to public comments and to incorporate experience gained by the NRT during 1979 concerning the Campeche Bay and other oil spills affecting U.S. waters in the Gulf of Mexico.

Section 1510.64 relating to Special Forces has been revised in response to public comments and NRT recommendations, particularly with respect to clarifying the responsibilities of NOAA, EPA and the Department of the Interior (Fish and Wildlife Service) in providing scientific support.

F. Regulatory Analyses

Because the Plan governs the Federal government's response to oil and hazardous substances pollution and does not regulate private activities, and since the revisions to the Plan are primarily of a simplifying and updating nature, the Council, supported by a recommendation from the NRT, determined that a regulatory analysis under E.O. 12044 was not required in conjunction with the publication of the Final revisions. The final revisions to the National Contingency Plan implement the policy and other requirements of Executive Order 12044 (Improving Government Regulations) to the fullest extent possible. The revised Plan has been simplified and substantially rewritten in plain language. In reviewing the proposed revisions the Council gave careful attention to minimizing any burden on the public.

The determinations required by Section 2(d) of the Order have been made by the Council and are available on request.

G. Conclusion

We could not, of course, adopt every suggestion that was made on revisions to the National Contingency Plan. We have tried to respond to the major concerns that were expressed. We are confident that any issues which arise in the future can be resolved through recommendations by the public, state and local governments and the participating agencies to the Regional Response Teams and the National Response Team. The National Response Team will continue to supervise implementation of the Plan and, where appropriate, make recommendations to the Council for additional revisions.

We appreciate the efforts of the many people who participated in developing and refining the revisions to the Plan.

Gus Speth,
Chairman.

Part 1510 is revised to read as set forth below:

PART 1510—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

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Authority: Sec. 311(c)(2), Pub. L. 92-500, as amended; 86 Stat. 865, 33 U.S.C. 1321(c)(2); Executive Order 11735, 38 FR 21243 (August 1973).

Subpart A—Introduction

§ 1510.1 Purpose and objectives.

This National Oil and Hazardous Substances Pollution Contingency Plan provides for coordinated Federal action to try to prevent discharges of oil and hazardous substances, and to protect the environment from damage when discharges occur. The Plan also promotes Federal-State coordination and encourages local governments and private firms to build capabilities for cleaning up discharges.

§ 1510.2 Authority.

This Plan was developed in compliance with Section 311(c)(2) of the Clean Water Act, as amended (33 U.S.C. 1321(c)(2)). In Executive Order 11735, the President delegated to the Council on Environmental Quality authority and responsibility to prepare, publish, revise, and amend a National Contingency Plan for the removal of oil and hazardous substances.

(b) The Plan and its Annexes, and regional and local plans, provide for:

(1) Assignment of responsibilities among Federal agencies, in coordination with State and local agencies;

(2) Identification, procurement, maintenance, and storage of equipment and supplies;

(3) Establishment or designation of

(i) A strike force to carry out the Plan and

(ii) Trained and adequately equipped emergency task forces at major ports;

(4) A system of surveillance and reporting to give responsible Federal and State agencies the earliest possible notice of discharges of oil and hazardous substances or imminent threats of such discharges.

(5) Establishment of a national center to provide for coordination and direction of operations in carrying out the Plan;

(6) Procedures for identifying, containing, dispersing, and removing oil and hazardous substances;

(7) A schedule, prepared in cooperation with the states, identifying any dispersants or other chemicals that may be used in carrying out the Plan;

(8) A system for reimbursing states for reasonable costs incurred in removing discharges;

(9) A procedure for coordinating scientific support of cleanup operations, assessment of damage after a spill, and research efforts; and

(10) A system for referral and appeal of decisions of the Regional Response Teams and On-Scene Coordinators.

§ 1510.3 Scope.

(a) The Plan applies to all Federal agencies and is in effect for the navigable waters of the United States and adjoining shorelines, for the contiguous zone, and the high seas beyond the contiguous zone in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976). (See Sections 311(b)(1) and 502(7) of the Clean Water Act).

(b) Implementation of this Plan is complementary to the Joint U.S./Canadian Contingency Plan (including the annexes pertaining to the Great Lakes, and the Eastern and Western coastal areas); the Joint U.S./Mexican Contingency Plan (when adopted by both parties); and international assistance plans and agreements, security regulations, and responsibilities based upon Federal statutes and Executive Orders. This Plan shall be utilized to coordinate U.S. involvement in pollution incidents occurring in waters not under the management jurisdiction of the United States.

§ 1510.4 Abbreviations.

(a) *Department and Agency title abbreviations:*

CEQ—Council on Environmental Quality.
Corps—U.S. Army Corps of Engineers.
DHEW—Department of Health, Education, and Welfare.
DOC—Department of Commerce.
DOD—Department of Defense.
DOE—Department of Energy.
DOI—Department of the Interior.
DOJ—Department of Justice.
DOL—Department of Labor.
DOS—Department of State.
DOT—Department of Transportation.
EPA—Environmental Protection Agency.
FEMA—Federal Emergency Management Agency.
FWS—U.S. Fish and Wildlife Service.
MarAd—Maritime Administration.
NMFS—National Marine Fisheries Service.
NOAA—National Oceanic and Atmospheric Administration.
USCG—U.S. Coast Guard.
USDA—Department of Agriculture.
USGS—U.S. Geological Survey.
USN—U.S. Navy.

(b) *Operational title abbreviations:*

ERT—Environmental Response Team.
NRC—National Response Center.
NRT—National Response Team.

OSC—On-Scene Coordinator.
PIAT—Public Information Assistance Team.
SSC—Scientific Support Coordinator.
RRC—Regional Response Center.
RRT—Regional Response Team.

§ 1510.5 Definitions.

(a) Act—means the Clean Water Act, as amended, 33 U.S.C. 1251, *et seq.*

(b) Activation—means notification by telephone or other expeditious means to the appropriate state and local officials, to the regional or district office of participating agencies, or, when required, the assembly of some or all members of the RRT or the NRT.

(c) Coastal waters—generally means U.S. waters which are navigable by deep draft vessels, including the contiguous zone and parts of the high seas to which this Plan is applicable and other waters subject to tidal influence.

(d) Contiguous Zone—means the zone of the high seas, established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone, which is contiguous to the territorial sea and which extends 12 miles seaward from the same baseline from which the territorial sea is measured.

(e) Discharge—includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping of oil or hazardous substances. Discharges permitted under Section 301, 302, 306, 318, 402 or 404 of the Act or Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972 (Pub. L. No. 92–532) are not included.

(f) Hazardous substance—means any substance designated as hazardous under subsection (b)(2) of section 311 of the Act (see 40 CFR Part 116).

(g) Inland waters—generally means U.S. waters upstream from coastal waters.

(h) Major disaster—means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, drought, fire or other catastrophe in the United States which the President determines to be damaging enough to warrant major disaster assistance under the Disaster Relief Act of 1974 (Pub. L. 93–288).

(i) Presidential Emergency Determination—a formal Presidential decision made at the request of a State Governor determining that a situation constitutes an "emergency" in accordance with the provisions of the Disaster Relief Act of 1974 (Pub. L. 93–288).

(j) Oil—means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredged spoil.

(k) On-Scene Coordinator (OSC)—means the Federal official predesignated by the EPA or the USCG to coordinate and direct the Federal response to spills, and discharge removal efforts at the scene of a discharge.

(l) Phases—response actions fall into five classes or phases. Phase I is Discovery and Notification; Phase II, Evaluation and Initiation of Action; Phase III, Containment and Countermeasures; Phase IV, Removal, Mitigation and Disposal; and Phase V, Documentation and Cost Recovery. Elements of any phase may coincide with other phases. For a full description of the phases, see Subpart E, § 1510.51–55.

(m) Plan—means the National Oil and Hazardous Substances Pollution Contingency Plan.

(n) Potential discharge—means any accident or other circumstance which constitutes a substantial threat of a discharge of oil or hazardous substance. Severity of potential discharges shall be classified according to the guidelines in subparagraph (r) below.

(o) Participating agencies—means all departments and agencies on the NRT that have responsibility and provide resources for the effective operation of this Plan.

(p) Public health or welfare—includes all factors affecting human health and welfare, including, but not limited to, human health, the natural environment, fish, shellfish, wildlife, and public and private property, shorelines and beaches.

(q) Remove or removal—means the removal of oil or hazardous substances from the water and shorelines or taking necessary actions to minimize or mitigate damage to the public health or welfare. Under this Plan, removal refers to Phase III and IV response operations.

(r) Size classes of discharges—The following classifications are provided as guidance for the OSC and serve as the criteria for the actions delineated in Section 1510.63. They are not meant to imply associated degrees of hazard to the public health or welfare, nor are they a measure of environmental damage. Any discharge that poses a substantial threat to the public health or welfare, or results in critical public concern shall be classed as major discharge regardless of the following quantitative measures.

(1) Minor discharge—means a discharge to the inland waters of less than 1000 gallons of oil; or a discharge to the coastal waters of less than 10,000 gallons of oil; or a discharge of a hazardous substance in a quantity less than that defined as reportable by regulation (40 CFR Part 117).

(2) Medium discharge—means a discharge of 1,000 to 10,000 gallons of oil to the inland waters; or a discharge of 10,000 gallons to 100,000 gallons of oil to the coastal waters; or a discharge of a hazardous substance equal to or greater than a reportable quantity as defined by regulations (40 CFR Part 117).

(3) Major discharge—means a discharge of more than 10,000 gallons of oil to the inland waters; or more than 100,000 gallons of oil to the coastal waters; or a discharge of a hazardous substance that poses a substantial threat to the public health or welfare, or results in critical public concern.

(s) United States—means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Subpart B—Responsibility

§ 1510.21 Federal responsibility.

(a) This Plan seeks to insure a coordinated Federal response at the scene of a discharge, or a potential discharge of oil or hazardous substance that poses a threat to the public health or welfare. In the event of a discharge, the Federal OSC shall first promptly determine (under section 311(c)(1) of the Act) whether the person responsible for the discharge is taking proper action to remove the discharge or threat of discharge. If practicable, the OSC shall make the person responsible aware of his financial responsibility. If the OSC determines that the person responsible is taking proper action, the OSC shall monitor progress and provide advice. If the person responsible does not act promptly or fails to take proper removal actions, or if the person responsible is unknown, or if a potential discharge is considered to exist, further Federal response actions shall be undertaken promptly in accordance with this Plan.

(b) Removal actions taken under section 311(c)(1) of the Act are limited to the areas described in § 1510.3(a) (Scope of Plan). When a discharge or potential discharge that poses a threat to U.S. waters, occurs outside the Plan's jurisdiction, the procedures of this Plan and those of regional and local plans apply to the extent practicable; removal will take place under other legal authorities.

(c) In accordance with section 311(d) of the Act, whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare, because of a

discharge or an imminent discharge of large quantities of oil or a hazardous substance from a vessel, the United States may:

(1) Coordinate and direct all public and private efforts for the removal or elimination of the threat; and

(2) Summarily remove and, if necessary, destroy the vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. The authority for these actions has been delegated under Executive Order 11735 to the Administrator of EPA and the Secretary of the Department in which the Coast Guard is operating, respectively, for the waters for which each designates the OSC under this Plan.

(d) When the Administrator of EPA or the Secretary of the Department in which the Coast Guard is operating determines there is an imminent and substantial threat to the public health and welfare because of an actual or threatened discharge of oil or hazardous substance into or upon the waters of the United States from any onshore or offshore facility, he may require, through the Attorney General, that the U.S. Attorney of the district in which the threat occurs secure the relief necessary to abate the threat. The NRT may request EPA or the USCG to exercise this authority. The action described here is in addition to any other actions taken by a state or local government for the same purpose.

(e) Federal agencies with facilities or other resources which may be useful in a Federal response situation will make those facilities or resources available for use in accordance with this Plan and the regional and local plans. Federal resources shall be made available to the extent possible, consistent with agencies' operational requirements, within the limits of existing statutory authority, and within the spirit of the President's and the Congress intent to minimize discharges and their effects.

(f) Environmental pollution control techniques shall be employed in accordance with applicable regulations and guidelines, and regional and local contingency plans. In any circumstances not covered by regulations, the use of chemicals shall be in accordance with Annex X and must have the concurrence of the EPA representative or alternate representative on the RRT. In the absence of the EPA representative or alternate, the concurrence of the appropriate EPA regional administrator must be obtained.

(g) Response actions to remove discharges originating from Outer Continental Shelf Lands Act operations shall be in accordance with the August 1971 Memorandum of Understanding between DOI and DOT concerning respective responsibilities under this Plan.

(h) Discharges of radioactive materials shall be handled pursuant to the Interagency Radiological Assistance Plan which is administered by the Department of Energy.

§ 1510.22 Duties of Federal agencies.

(a) Each of the participating Federal agencies has duties established by statute, Executive Order, or Presidential directive which may be relevant to the Federal response to a pollution discharge. See Annex IV for a description of applicable legal authorities. Regional contingency plans shall call upon agencies to discharge these duties in a coordinated manner. They shall provide for:

(1) Identification of the statutory responsibilities of all agencies involved;

(2) Prompt notification of agency representatives in the event of a threatened or actual oil or hazardous substances spill;

(3) Designation of agency representatives to assist OSCs in developing local contingency plans; and

(4) Coordination of agency representatives with the OSC during a pollution incident (see § 1510.36(a)(3)).

(b) The following Federal agencies have specific duties and responsibilities which are relevant to a response to discharges of oil or hazardous substances:

(1) The Council on Environmental Quality is responsible for preparing, publishing, revising and amending the National Contingency Plan. The NRT will advise CEQ on necessary changes to the Plan and CEQ shall insure that any disagreements among participating agencies are expeditiously settled.

(2) The Department of Agriculture provides expertise in managing agricultural, forest, and wilderness areas and in selecting landfill disposal sites. The Soil Conservation Service can provide to the OSC predictions of the effects of pollutants on soil and their movements over and through soil.

(3) The Department of Commerce, through NOAA, shall provide scientific expertise on living marine resources for which it is responsible, including endangered species and marine mammals (see § 1510.36(a)(3)); coordinate scientific support, provide current and predicted meteorologic, hydrologic, ice and oceanographic conditions for the high seas, coastal, and inland waters; provide charts and maps, including tide and current information, for coastal and territorial waters and the Great Lakes; and assist EPA in damage assessment in coastal areas and on the high seas. When requested by NRT, DOC through MarAd will provide advice on the design, construction and operation of merchant ships.

(4) The Department of Defense, consistent with its operational requirements, may provide assistance in maintaining navigation channels, in the removal of navigation obstructions, and in salvage. Upon request of the OSC, NRT, or USCG, the services and special equipment of the Supervisor of Salvage, USN will be provided as available for the cleanup and control of oil spills. Upon request from the OSC, locally deployed Navy equipment may be provided.

(5) The Department of Energy administers, implements, and coordinates the Interagency Radiological Assistance Plan (IRAP). DOE will advise the NRT when assistance is required in identifying the source and extent of radioactive contamination, and in the removal and disposal of radioactive discharges.

(6) The Department of Health, Education, and Welfare is responsible for providing expert advice and assistance on discharges or potential discharges that pose a threat to public health and safety.

(7) Federal Emergency Management Agency participates in the development and evaluation of national, regional, and local oil and hazardous substance pollution contingency plans in accordance with Executive Order 12148, Section 2–1; monitors responses related to such plans in accordance with Executive Order 12148, Section 2–2; and evaluates State Governors' requests for Presidential declarations of major disasters or determinations of emergency under Pub. L. 93–288 (42 U.S.C. 4401, *et seq.*), the Disaster Relief Act of 1974.

(8) The Department of Interior, through the USGS, can provide expertise in the fields of oil drilling, producing, handling, and transportation by pipeline. The USGS supervises continuously manned facilities which can be used for command, control and surveillance of discharges occurring from operations conducted under the Outer Continental Shelf Lands Act. The Bureau of Mines may provide analytical facilities which in an emergency could be of aid in identifying inorganic hazardous substances. Through its pollution response coordinators, the Fish and Wildlife Service of DOI will provide technical expertise to the OSC and RRT on fish and wildlife and their habitats, including migratory birds, marine

mammals, and endangered and threatened plants and animals (See § 1510.36(a)(3)). DOI is responsible for implementing this plan in American Samoa and the Trust Territory of the Pacific Islands when required.

(9) The Department of Justice can provide expert advice on complicated legal questions arising from discharges and Federal agency responses.

(10) The Department of Labor, through the Occupational Safety and Health Administration, will provide the OSC with advice, guidance, and assistance regarding hazards to persons involved in removal or control of oil or chemical spills, and in the precautions necessary to prevent hazards to their health and safety.

(11) The Department of Transportation provides expertise on all modes of transporting oil and hazardous substances. Through the USCG, DOT offers expertise in the domestic/international fields of port safety and security, marine law enforcement, ship navigation and construction, and the manning, operation, and safety of vessels and marine facilities. The USCG also maintains continuously manned facilities which can be used for command, control, and surveillance of oil discharges occurring on the waters of the United States or the high seas. For those areas where it provides the OSC, the USCG chairs the RRT which develops, implements, and revises the regional and local contingency plans as necessary.

(12) The Department of State will lead in developing joint international contingency plans. It will also help to coordinate an international response when pollution discharge crosses international boundaries or involves foreign flag vessels. Additionally, this Department will coordinate requests for assistance from foreign governments and U.S. proposals for conducting research at incidents that occur in waters of other countries.

(13) The Environmental Protection Agency provides expertise on environmental effects of pollution discharges and environmental pollution control techniques. EPA will also advise the RRT and OSC on what degree of hazard a discharge poses to the public health and safety, and will coordinate scientific support, including assessment of damages, in the inland regions. For those areas where it provides the OSC, EPA chairs the RRT which develops, implements, and revises regional and local contingency plans as necessary. EPA will coordinate with USCG in the preparation of regional and local contingency plans for pollution control and protection of the environment.

(c) All Federal agencies are responsible for minimizing the possibility of discharges; for developing the capability to respond promptly to discharges from facilities they operate or supervise; and for making resources available for Federal pollution response operations.

(d) In addition to their general responsibilities under paragraph (c) of this section, participating agencies are responsible for:

(1) Leading all Federal agencies in programs to minimize environmental damage associated with discharges from facilities they operate or supervise;

(2) Providing representation as necessary to the NRT and RRTs, and giving assistance to the RRTs and OSCs in formulating regional and local contingency plans;

(3) Developing the operating capability in their particular areas of expertise for a rapid response to any pollution discharge in coordination with other Federal agencies;

(4) Making necessary information available to the NRT, RRT, or OSC; and

(5) Informing the NRT and RRTs (consistent with national security considerations) of changes in the availability of resources that would affect the operation of this Plan.

§ 1510.23 Non-Federal participation.

(a) Every State Governor is asked to assign an office or agency to represent the State on the RRT. The State's representative should participate fully in all facets of RRT activities and shall designate the element of the State government that will direct state supervised discharge removal operations. Participation of officials from municipalities with major ports and waterways is also invited in the RRT. (See § 1510.34(f).)

State and local government agencies are encouraged to include contingency planning for discharge removal in all emergency and disaster planning. Federal local contingency plans required by this Plan shall be coordinated with plans developed by state and local governments. This is especially important for traffic control, land access, and disposal of pollutants in removal operations.

(b) States, industry groups, academic organizations, and others are encouraged to commit resources for removal operations. Specific commitments shall be listed in Federal regional and local contingency plans. EPA and the USCG should explore the possibility of concluding memoranda delegating responsibility to concerned States for cleanup of certain spills. Details on reimbursement to states for removal actions taken under to this Plan are contained in § 1510.65 and 33 CFR Part 153.

(c) It is particularly important to coordinate the technical information generated by scientists from the Federal and State governments, from industry, universities, and elsewhere to assist the OSC in developing cleanup strategies in environmentally sensitive areas; to assist in the performance of post spill damage assessments; and to assure that pertinent research will be undertaken to meet national needs. The scientific support aspect of this Plan is described in § 1510.64.

(d) Federal local contingency plans should establish procedures to allow for well-organized and worthwhile employment of volunteers. Local plans should provide for the direction of volunteers by the OSC, or by other Federal, local or state officials knowledgeable in contingency operations and capable of providing leadership. Local plans should also identify specific areas in which volunteers can best be used such as: beach surveillance, logistical support, bird and wildlife treatment, and scientific investigations. Normally, volunteers should not be used for physical removal of pollutants. If the substance discharged is toxic to humans, or if in the judgment of the OSC other dangerous conditions exist, volunteers shall not be permitted at on-scene operations. Regional and local contingency plans should provide for routine education and training of volunteers so that training during an actual incident will not be necessary. Information on discharge and removal efforts should be provided to volunteers frequently during the course of planning to insure coordinated effort and meaningful participation.

Subpart C—Organization

§ 1510.31 Emergency response activities and coordination.

(a) In a pollution emergency, the OSC is responsible for Federal on-scene coordination. The OSC provides reports to and receives advice from the RRT charged with regional coordination. The RRT is composed of representatives from the regional and district offices of the participating agencies, States, and local governments.

(b) National coordination is accomplished through the NRT which receives reports from and provides guidance and advice to the RRTs. Activities are coordinated through the facilities of the national and regional response centers.

(c) The organization of this Plan is shown in Figure 1.

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National Contingency Plan Concepts

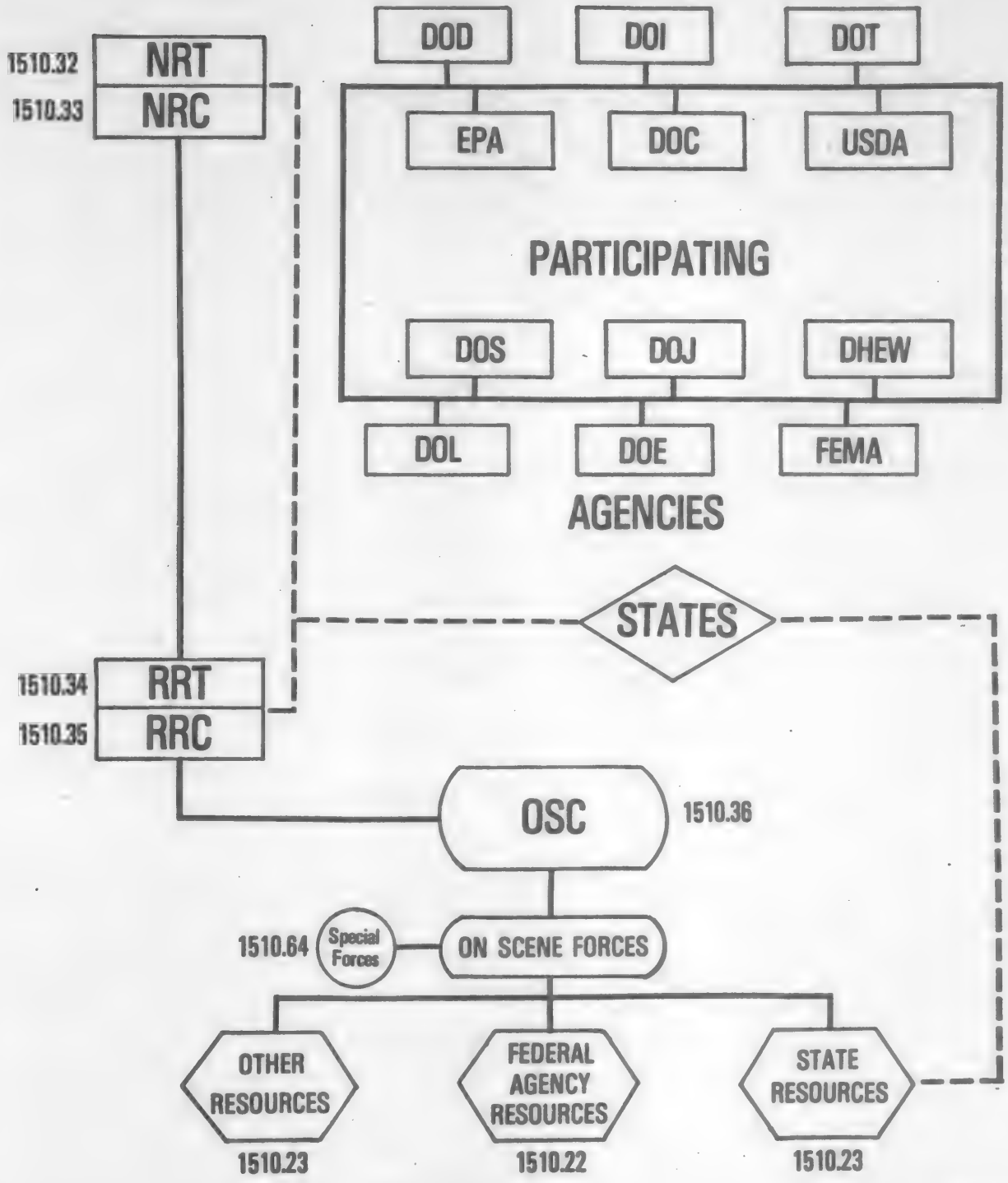

Figure 1

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§ 1510.32 National Response Team.

(a) The NRT consists of representatives from the participating agencies. It is the national body for planning and preparedness before a pollution discharge and for coordination and advice during a discharge. Each participating agency shall designate a member to the team and sufficient alternates to insure representation.

(b) Except for periods of activation because of a pollution incident, the representative of EPA shall be the chairman and the representative of DOT shall be vice-chairman of the NRT. The vice-chairman shall maintain records of NRT activities along with national, regional and local plans for pollution response. When the NRT is activated for a pollution incident, the chairman shall be the representative of EPA or DOT, depending upon the area in which the response is taking place.

(c) NRT meetings are open to the public. Upon invitation of the chairman and with the consent of members, non-government observers may participate without vote in any meeting of the NRT on matters of their direct concern. They shall be provided with reports issued by the NRT. Invitations to participate shall be given to a non-Government organization if:

(1) The organization can reasonably be expected to make a significant contribution to the work of the Team;

(2) The organization's work, past and present, has a direct relationship to the work of the Team; and

(3) The organization is not represented at the NRT through another organization.

(d) Normally, when the NRT is not activated for a pollution incident, it shall serve as a standing committee to evaluate the preparedness of the agencies and effectiveness of plans for responding to pollution discharges, to recommend needed policy changes in the response organization, and to recommend revisions to this Plan as needed.

(e) The NRT shall consider and make recommendations to appropriate agencies on the training and equipping of response teams; necessary research, development, demonstration, and evaluation to improve response capabilities; and equipment, material stockpiling, and other operational matters as the need arises. CEQ shall be advised of any agency's failure to respond adequately to these recommendations.

(f) The NRT shall recommend revisions of this Plan to CEQ for approval and publication.

(g) Scientific advisors shall be designated, from EPA, DOC–NOAA, and DOI–FWS, to advise the NRT on scientific matters related to pollution response, and to coordinate and oversee the regional scientific support mechanism (see § 1510.64). They shall also evaluate and advise the NRT on the desirability of carrying out research affecting waters and resources not under the jurisdiction of the United States.

(h) The NRT shall establish and maintain a Research and Development Committee to:

(1) Provide the latest information on Federal agencies' research, development, and demonstration activities for spill response and cleanup;

(2) Respond to NRT requests for scientific and technical information;

(3) Identify appropriate research and development initiatives;

(4) Provide for information exchange between agencies on response research, development, and demonstration projects. The committee shall report to the NRT at the June and December meetings and at other times upon request.

(i) Ad hoc committees may also be established from time to time. Representatives from the participating agencies with direct involvement in such committees' charters shall serve on these committees.

(j) Planning and preparedness responsibilities of the NRT are to:

(1) Make a continuing review of regional responses to pollution incidents, with an evaluation of equipment readiness and coordination among responsible public agencies and private organizations.

(2) Consider necessary changes in policy on the basis of the continuing review of regional responses to pollution incidents;

(3) Develop procedures to ensure the coordination of Federal, state, local government, and private responses to pollution incidents;

(4) Review regional plans and reports of activities from RRTs, and make sure that RRTs are functioning satisfactorily.

(5) Inform the Research and Development Committee on research requirements identified during discharges of unusual materials or under unique circumstances;

(6) Review continuously and act upon reports by the Research and Development Committee;

(7) Maintain readiness to respond to a nationally significant discharge of oil or hazardous substances;

(8) Monitor incoming reports from all RRTs and activate the NRT for a pollution incident when appropriate; and

(9) Meet monthly or more frequently to review pollution emergency response actions of the preceding period, receive reports from the R&D Committee and ad hoc committees. Information on the time and place of meetings may be obtained from the National Response Center (see § 1510.33).

(k) The NRT shall be activated as an emergency response team when requested by any team representative or when a discharge:

(1) Exceeds the response capability of the region in which it occurs;

(2) Transects regional boundaries; or

(3) Involves significant population hazards or national policy issues, substantial amounts of property, or substantial threats to natural resources.

When acting as an emergency response team, the NRT shall consist of representatives from the participating agencies. Each representative or an appropriate alternate shall be notified immediately by telephone of the emergency activation of the NRT.

(l) When activated for a pollution incident the NRT shall meet at the call of the chairman and shall:

(1) Monitor and evaluate reports from the OSC. The NRT may recommend to the OSC, through the RRT, actions to combat the discharge;

(2) Request other Federal, state, and local governments, or private agencies to consider providing resources under their existing authorities to combat a discharge of monitor response operations;

(3) Coordinate the supply of equipment, personnel, or technical advice to the affected region from other regions or districts; and

(4) Prepare public information releases and transfer information between the OSC and the Washington, D.C., headquarters of the agencies concerned. Public information is discussed in § 1510.37.

(m) The NRT shall consider any matter referred to it for settlement by an RRT or OSC when the matter cannot be resolved at regional level on an interagency basis. Unless circumstances dictate otherwise, further actions will not be taken on matters thus referred to NRT until the NRT position has been transmitted to the RRT and OSC. Any member of an RRT may petition the NRT for a review of matters considered by the RRT. Petitioning RRT members may appear before the NRT to present their arguments but shall not have the right to vote in NRT deliberations on the disputed matter. While the NRT desires to achieve a consensus on all matters brought before it, certain matters may prove unresolvable through normal debate or discussion. In such cases,

each cabinet department or independent agency serving as a participating agency on the NRT shall be accorded one vote in NRT proceedings.

§ 1510.33 National Response Center.

(a) The NRC is the national communications center for activities related to pollution incidents. It is located at the Washington, D.C., Headquarters of the USCG. Notice of discharges should be made through a toll free number, a special local number, or through telephone and teletype circuits. (Details appear below and in Annex V.) The NRC relays notices of discharge to the appropriate OSC. It disseminates OSC and RRT reports to the NRT when appropriate. It provides facilities for the NRT to use in coordinating a national pollution emergency response when required.

(b) The Commandant, U.S. Coast Guard, shall provide the necessary communications, plotting facilities, and equipment. These will include:

(1) A continuously manned communication center for receiving reports of discharges;

(2) Telephone branch lines;

(3) Teletypewriter circuits;

(4) The latest updated charts of the Departments of Commerce, Interior and Defense for the U.S. waters, the Continental Shelf and the ocean areas adjacent to the U.S. Territorial waters;

(5) Technical library on oil and hazardous substances pollution (described in Annex VII); and

(6) Plotting and display facilities to depict the geographic position, movement, and extent of the discharge.

(c) The USCG shall furnish technical manuals and materials, and necessary administrative support to operate the NRC effectively and efficiently.

(d) Participating agencies may use normal communication circuits to fulfill their responsibilities under the Plan. Telephone numbers for the primary notification offices of interested agencies will be maintained in NRC and in RRCs.

(e) First notice of a pollution discharge shall be made immediately (in accordance with 33 CFR 153.203) either to the NRC Duty Officer, HQ USCG, Washington, D.C., toll free telephone (800) 424–8802 (or 426–2675 in the Washington, D.C., local calling area), or to the predesignated OSC (see Annex III). All notices of discharges received at the NRC shall be relayed immediately by telephone to the OSC. The NRC shall evaluate incoming information and immediately advise FEMA of potential major disaster situations.

(f) Pollution Reports (POLREPS) shall be submitted by the RRT to the NRC as developments occur and not later than 1600 local time on each day of a pollution response operation. Pollution Reports shall be disseminated by the NRC to NRT members as requested by those members.

§ 1510.34 Regional Response Team.

(a) The RRT serves as the regional body for planning and preparedness actions before a pollution discharge and for coordination and advice during a pollution discharge. The RRT consists of regional representatives of the participating agencies, state, and local government representatives as appropriate. The full participation of high level representation from States and local governments with major ports and waterways is desired. (See §§ 1510.23(a) and 1510.34(f).)

(b) Except when the RRT is activated for a pollution incident, the representatives of EPA and DOT shall act as co-chairmen. When the RRT is activated for a pollution incident, the chairman shall be the representative of EPA or DOT, depending upon the area of the spill and the response.

(c) Each participating agency shall designate one member and at least one alternate member to the RRT. Participating States and local governments should also designate one member and at least one alternate member to the Team. Agencies may also provide additional representatives as observers to meetings of the RRT. Persons representing Federal and State agencies shall be specified in each regional contingency plan.

(d) RRT members shall designate representatives from their agencies to work with OSCs in developing local contingency plans, providing for the use of agency resources, and in responding to pollution incidents.

(e) The chairman of RRT shall ensure that the regional and local contingency plans adequately provide the OSC with assistance from the Federal agencies commensurate with agencies' resources, capabilities and responsibilities within the region. During a pollution emergency, the members of the RRT shall insure that the resources of their agencies are made available to the OSC as specified in the regional and local contingency plans.

(f) Affected states are encouraged to participate actively in all RRT activities (see § 1510.23(a)), to designate representatives to work with the RRT and OSC's in developing regional and local plans, plan for and make available State resources, and serve as the contact point for coordination with local government agencies in responding to pollution incidents. When the RRT is activated for a pollution emergency, affected States are invited to participate in all RRT deliberations. Any State or local government representative who participates in the RRT has the same status as any Federal member of the RRT.

(g) When not activated for a pollution incident, the RRT serves as a standing committee to recommend needed policy changes in the regional response organization, to revise the regional plan as needed, and to evaluate the preparedness of the agencies and the effectiveness of local plans for the Federal response to pollution incidents. The RRT shall:

(1) Make a continuing review of regional and local responses to pollution incidents, considering equipment readiness and coordination among responsible public agencies and private organizations;

(2) Recommend revisions to this National Contingency Plan to the NRT, on the basis of observations of response operations;

(3) Consider and recommend necessary changes in policy on the basis of the continuing review of regional responses to pollution incidents;

(4) Develop procedures to insure the coordination of Federal, State, local government, and private responses to pollution incidents;

(5) Review the functioning of OSCs to insure that local contingency plans are developed satisfactorily;

(6) Be prepared to respond to a major discharge of oil or hazardous substances outside its region;

(7) Monitor incoming reports from all OSCs and activate the RRT when appropriate; and

(8) Meet quarterly to review response actions carried out during the preceding period, and consider changes in both regional and local contingency plans. In those regions having both coastal and inland RRTs, RRT meetings held in alternating quarters (inland in March, coastal in June, etc.) would meet this requirement.

(9) RRTs shall provide letter reports on their activities to the NRT twice a year, no later than 31 January and 31 July. The reports will help to identify techniques and procedures that have worked well and subjects requiring improvement and should be circulated to other RRTs. At a minimum, reports will contain paragraphs covering:

(i) *Summary of Activities,* containing highlights of routine meetings and activations during the reporting period;

(ii) *Organizational Matters,* Outlining improvements made since the last report. Organizational matters requiring NRT action should be included. RRTs

are encouraged to add detailed accounts of successful procedures;

(iii) *Operations,* including recommendations, comments or observations on response methods, equipment, training or other operational matters which have not been addressed in the review of OSC reports.

(h) Each coastal RRT is required to conduct an annual training exercise in which response equipment is actually deployed. These exercises should use all existing capabilities in the local port area. Any funding required to support the exercise should be requested through the normal agency budget process. The RRT shall cooperate to the fullest extent possible in field exercises of member agencies.

(i) RRTs for inland regions are strongly encouraged to conduct an annual training exercise in which response equipment is actually deployed. RRTs for inland regions shall cooperate to the fullest extent possible in field exercises of member agencies.

(j) The RRT shall be activated as an emergency response team when a discharge:

(1) Exceeds the response capability available to the OSC in the place where it occurs;

(2) Transects regional boundaries; or

(3) Poses a substantial threat to the public health and welfare or to regionally significant amounts of property. Regional contingency plans shall specify detailed criteria for activation of RRTs.

(k) The RRT shall be activated automatically in the event of a major or potential major discharge. The RRT may be activated during any other pollution emergency by an oral request from any RRT representative to the chairman of the Team. Requests for Team activation shall later be confirmed in writing. Each representative, or an appropriate alternate, shall be notified immediately by telephone when the RRT is activated. POLREPS to the NRC from RRTs shall include the time of Team activation, method of activation (e.g., telephone) and place of assembly (if appropriate).

(l) When activated for a pollution incident, agency representatives shall meet at the call of the chairman and shall:

(1) Monitor and evalute reports from the OSC. The RRT shall advise the OSC on the duration and extent of Federal response and may recommend to the OSC specific actions to combat the discharge;

(2) Request other Federal, state or local government, or private agencies to consider providing resources under their existing authorities to combat a discharge or monitor response operations;

(3) Help the OSC prepare information releases to the public and for communication with the NRT. Public information is discussed in § 1510.37;

(4) Advise the regional head of the agency providing the OSC if the circumstances or progress of a pollution discharge indicate that a different OSC should be designated; and

(5) Submit Pollution Reports (POLREPS) to the NRC as developments occur and not later than 1600 local time of each day of the operation.

(m) Whenever insufficient national policy guidance exists on a matter before the RRT, or there is a question concerning the interpretation of national guidance, the matter shall be referred to the NRT for resolution. Time permitting, further actions will not be taken on such issues until the NRT has transmitted a position to the OSC and RRT. Should the matter directly affect a State or local government, the RRT representatives of the affected governments may express their position to the NRT.

(n) If any member of the RRT dissents from a decision of the RRT on a discretionary action pursuant to the Plan, or an interpretation of the plan, that member may appeal the decision to the NRT in accordance with § 1510.32(m). The dissenting member shall notify the chair of the NRT of its appeal. During a major pollution discharge, a member who has pursued an appeal to the NRT may request further review by CEQ.

(o) Any State or local government representative who participates in the RRT has the same status as any Federal member of the RRT. Although it is preferable that RRT's reach consensus views, there may be occasions when a vote is necessary. On those occasions, each Federal cabinet level or independent agency, the directly affected State, and the directly affected local government shall be accorded one vote only.

(p) The RRT shall be deactivated by agreement between the EPA and USCC team members. The time of deactivation shall be included in POLREPS.

(q) Boundaries for regional contingency plans shall follow those of the Standard Regions for Federal Administration as shown in Annex III. Boundaries for local contingency plans shall coincide with those agreed upon between EPA and the USCG to determine OSC areas of responsibility and shall be clearly indicated in the regional contingency plan.

§ 1510.35 Regional Response Center.

The RRC is the regional center for pollution response activities. Each regional plan shall specify quarters for the RRC. The RRC provides facilities and personnel for communications, information storage, and other requirements for coordinating the response to pollution incidents.

§ 1510.36 On-Scene Coordinator.

(a) The OSC shall direct Federal pollution control efforts and coordinate all other Federal efforts at the scene of a discharge or potential discharge. The OSC shall be predesignated, as part of the planning and preparation for response to pollution incidents, by the regional or district head of the agency responsible for providing the OSC.

(1) The first official from an agency with responsibility under this plan to arrive at the site of a discharge shall coordinate activities under the Plan until the OSC arrives.

(2) The OSC shall collect pertinent facts about discharge, such as potential impacts on human health and welfare; the nature, amount, and location of discharged materials; the probable direction and time of travel of discharged materials, the natural resources, including fish and wildlife and their habitat, and property which may be affected and the priorities for protecting them.

(3) The OSC shall direct Phase II, Phase III and Phase IV operations; that is, Evaluation and Initiation of Action, Containment and Countermeasures; and Removal, Mitigation and Disposal (see Subpart E, §§ 1510.51–55 for descriptive details). Advice provided by the EPA on the use of chemicals in Phase III and Phase IV operations shall be binding on the OSC, except as provided in Annex X of this Plan. Advice provided by the Fish and Wildlife Service (DOI) or by the National Oceanic and Atmospheric Administration (DOC) on cleanup actions that may affect endangered and threatened species or their habitats shall be considered at all times and shall be binding on the OSC unless in his judgment actions contrary to this advice must be taken to protect human life.

(4) The OSC shall provide necessary support and documentation for Phase V activities (Documentation and Cost Recovery).

(5) The OSC will consult regularly with the RRT in carrying out this Plan and will keep the RRT fully informed of all activities under the Plan.

(b) EPA and the USCG shall designate OSCs for all areas in each region. The EPA shall furnish or provide OSCs for inland waters. The USCG shall furnish or provide OSCs for the coastal waters,

and for Great Lakes waters, ports and harbors.

(c) All Federal agencies are required by Executive Order to develop emergency plans and procedures for dealing with oil and hazardous substances spills caused by facilities or vessels under their jurisdiction. All Federal agencies, therefore, are responsible for designating the offices that will coordinate response actions for spills caused by facilities or vessels under their jurisdiction and for providing means to remove or mitigate such spills in accordance with this Plan and applicable Federal regulations and guidelines. If the responsible Federal agency does not act promptly or take appropriate action, to respond to a spill caused by a facility or vessels under its jurisdiction, the EPA or USCG (depending on the area where the discharge occurs) shall assume the OSC functions.

(d) The OSC is responsible for developing and maintaining a local contingency plan (Federal local plan) for the Federal response in the area of the OSC's responsibility. Designated Federal, State, and local representatives to the RRT shall assist in these efforts. (See § 1510.42.)

§ 1510.37 Public information network.

(a)(1) When a major pollution incident occurs, it is imperative to give the public prompt, accurate information on the nature of the discharge and actions underway to mitigate the damage. Those immediately capable, especially local fire, police and governmental officials, will be contacted first so they may use all available resources to notify the public of a potential threat. Prompt disclosure of the facts helps to encourage cooperation by interested parties and to check the spread of misinformation. National administration policy and the Freedom of Information Act both call for maximum disclosure of information.

(2) If a participating agency believes public interest warrants the issuance of statements or releases and the on-scene or national news offices have not been activated, the affected agency should recommend activation. In the interim, all news releases or statements issued by participating agencies concerning the incidents will be cleared through the OSC.

(b) When the NRT is activated, the Team chairman will contact the most appropriate agency and ask it to detail a professional information officer to establish and direct a national news office. Whenever possible, the director of the national news office shall be provided by the same agency providing the OSC. Requests by the director of the national news office for an appropriate number of professional and clerical assistants will be met by one or more of the participating agencies.

(1) The director of the national news office will be responsible for overall supervision of public information activities of the NRT. The closest possible coordination will be maintained between the national news office in Washington and the on-scene news office.

(2) Promptly after his designation, the director of the national news office will contact the White House Press Office and the Office of Governmental and Public Affairs to arrange whatever information assistance may be required by these offices.

(3) All national news office news releases will be cleared by the chairman of the NRT, or in his absence, the vice-chairman.

(4) The Director of the national news office will have free access to meetings of the NRT and will be consulted on the possible public reaction to the courses of action under consideration by the NRT.

(5) At appropriate intervals, the director of the national news office may arrange news conferences at which the NRT will respond to questions from the media representatives.

(6) The director of the national news office will keep appropriate nationally-based press offices posted on developments. These include the press offices of the secretaries or directors of the participating agencies; Senators and Representatives whose States or districts are affected by the incident.

(7) The national news office will be provided with adequate space, telephones, typewriters, communications equipment and other supplies by the U.S. Coast Guard at U.S. Coast Guard Headquarters, Washington, D.C. The director of the national news office will determine what equipment and supplies are needed to insure an orderly flow of information and to accommodate visiting members of the news media.

(c) An on-scene news office will be established upon the request of any agency participating on the RRT or the OSC to coordinate media relations and issue official Federal information on a pollution incident. The office will be staffed according to regional plans and applicable agency directives. Whenever possible, the on-scene news office will be headed by a representative of the agency providing the OSC. Any participating agency may, by request to the RRT, place a representative on the staff of the news office. The OSC shall determine location of the on-scene news office but every effort should be made to locate it near the scene of the pollution incident.

(1) The director of the on-scene news office shall coordinate all public information activities for the OSC. The director's functions include:

(i) Arranging news conferences for the OSC and other officials to make progress reports and respond to questions;

(ii) Keeping local and regional government officials informed of the pollution situation through contacts with their press offices or other representatives;

(iii) Keeping news media informed about the response effort and giving them as much cooperation as possible, for example, by arranging transportation to the scene of a pollution incident when possible;

(iv) Issuing and distributing daily news releases so long as public interest warrants;

(v) Giving citizens who make inquiries up-to-date information from the latest press release;

(vi) Observing public reaction to the pollution incident and advising the OSC of any actions that might better serve public information interests;

(vii) Handling queries from public and commercial interests properly and promptly;

(viii) Referring salesmen to technical personnel assigned to evaluate their wares;

(ix) Upon request, offering special public information services for official visitors, including notifying the news media of the time, place and purpose of official visits; making press conference arrangements; and arranging for interviews;

(x) Informing the public on the proper way to deal with individual problems and damages from the pollution incident; and

(xi) If necessary, drafting a model letter for participating agencies to use in answering mail inquiries, after the crisis has subsided. The model letter must be approved by the Chairman of the NRT.

(2) It is important for the on-scene news office to describe accurately in news releases each agency's contribution to the response effort, and to make sure that the various agencies assisting the OSC are represented at press conferences.

(3) Each OSC and supporting district or regional office must establish contacts and a working relationship with the regional news media as part of preparation and planning before a pollution incident occurs.

(d)(1) A Public Information Assistance Team (PIAT) shall be available to help OSCs and agenies' regional offices meet the demands for public information during a major pollution incident or threatened incident. Team members will be trained in journalism, public relations, and photography, and will have a knowledge of pollution response techniques, equipment, and the laws and regulations relating to pollution incidents. PIAT will be based at U.S. Coast Guard Headquarters and can be requested through the NRC any time.

(2) If the NRT has not been activated, the PIAT can serve as a center for answering inquiries in Washington, D.C., upon request of the parent agency of the OSC.

Subpart D—Plans

§ 1510.41 Regional contingency plans.

(a) The RRTs shall develop regional contingency plans for each standard Federal region. The purpose of these plans is coordination of a timely, effective response to pollution incidents by various Federal agencies and other organizations. Regional contingency plans must have a broad scope. They must include information on all useful facilities and resources in the region, from government, commercial, academic and other sources. To the greatest extent possible, regional plans will follow the format of the National plan. An example of the desired format is in Annex II.

(b) Each region includes many scientists who can make significant contributions to the response activities of the OSC and RRT. Regional Scientific Support Coordinators (SSCs) shall organize and coordinate these scientists and their contributions to the greatest extent possible. SSCs with advice from RRT members, shall also develop the parts of the regional plan that relate to scientific support.

§ 1510.42 Local contingency plans.

(a) Each OSC if responsible for developing a local contingency plan for the Federal response in his area of responsibility (Federal local plans). The plan should provide for a well-coordinated response that allows integration of or compatibility with pollution response plans of local, State and non-Federal entities. The plan shall identify environmentally sensitive areas, the probable locations for pollution incidents, the kinds of resources required to respond to pollution incidents, where such resources can be obtained, plans of action for protecting vulnerable resources, methods and sites for disposal of recovered oil and hazardous pollutants consistent with local and state plans developed under the Resource Conservation and Recovery Act (42 U.S.C. 6901, *et seq.*), and a local structure for responding to pollution incidents. The Federal local plan shall be developed in concert with and shall be consistent with fire emergency and disaster plans prepared by State and local agencies. To the greatest extent possible, Federal local plans will follow the sample format in Annex II.

(b) While the OSC is responsible for developing Federal local plans, a successful planning effort depends upon the full cooperation of all agency representatives, and includes the development of local capabilities to respond to pollution incidents. Particular attention must be given, during the planning process, to developing a multiagency local response team for coordinating on-scene efforts. The RRT must ensure proper liaison between the OSC and local representatives of RRT members.

A National inventory of pollution response and support equipment (SKIM) has been developed to help OSCs and RRTs gain rapid access to resources during emergencies. This inventory is accessible through the NRC, remote data terminals at Coast Guard Districts and Marine Safety Offices, and Captain of the Port Offices. The inventory shall include privately or commercially owned equipment as well as government resources. Regional and local planners shall ensure that data in the system are current and accuate, so that OSCs can make full use of it during emergencies, with minimal delays in obtaining needed resources. The Coast Guard is responsible for keeping the national inventory up to date with information from the regional offices of Federal agencies.

Subpart E—Operational Response Phases

§ 1510.51 Phase 1—Discovery and notification.

(a) A discharge or potential discharge may be discovered through: (1) A report submitted by a discharger in accordance with statutory requirements; (2) deliberate search by vessel patrols and aircraft; and (3) random or incidental observation by Government agencies or the public.

(b) A discharge or potential discharge discovered through deliberate search should be reported directly to the NRC. Reports of random discovery may be provided by fishing or pleasure boats, fire and police departments, telephone operators, port authorities, news media, or others. Such reports should be made to the NRC or the nearest USCG or EPA office. (See § 1510.33(e) and Annex III).

Regional and local plans shall provide for all reports to be channeled to the NRC, RRC, and appropriate State agency (as agreed upon with each State) as promptly as possible. Reports of major and medium discharges received by either EPA or USCG shall be expeditiously relayed by telephone to appropriate members of the RRT as specified by the regional contingency plan. Reports of minor discharges shall be exchanged between EPA and USCG as agreed to by the two agencies.

(c) The agency furnishing the OSC for a particular area is responsible for implementing Phase I activities in that area.

§ 1510.52 Phase II—Evaluation and initiation of action.

(a) The OSC shall ensure that a report of a discharge or potential discharge is immediately investigated. On the basis of all available information, the OSC shall: (1) Evaluate the magnitude and severity of the discharge or threat; (2) determine the feasibility of removal; and (3) assess the effectiveness of removal actions.

(b) When appropriate and as soon as possible after receipt of a report, the OSC shall advise the RRC of the need to initiate further Federal response actions. The actions may be no more than activation of the RRT, or a request for additional resources for further surveillance, or they may extend to Phase III or Phase IV containment or removal operations.

(c) The OSC shall ensure adequate surveillance over whatever actions are initiated. If effective actions are not being taken to eliminate the threat, or if removal is not being properly done, advise the responsible party. If the responsible party does not then take proper actions, or if the discharger is unknown or is otherwise unavailable, the OSC shall, pursuant to § 311(c)(1) of the Act, take whatever actions are necessary to eliminate the threat or remove the pollutant.

§ 1510.53 Phase III—Containment and countermeasures.

Defensive actions should begin as soon as possible after a discharge or potential discharge is discovered. This phase may include actions to protect the public health and welfare such as: analyzing water samples to determine the source and spread of the pollutants; procedures to control the source of discharge; measures to keep waterfowl and other wildlife away from the polluted area; damage control or salvage operations; placement of physical

barriers to deter the spread of a pollutant; use of booms or barriers to protect specific installations or areas; control of the water discharged from upstream impoundments; and the use of chemicals and other materials, in accordance with Annex X, to restrain the spread of the pollutant and mitigate its effects.

§ 1510.54 Phase IV—Cleanup, mitigation and disposal.

(a) Actions should be taken to recover the pollutant from the water and affected shorelines. These actions include: the use of sorbents, skimmers and other collection devices for floating pollutants; the use of vacuum dredges or other devices for sunken pollutants; the use of reaeration or other methods to mitigate damage from dissolved, suspended, or emulsified pollutants; and special treatment techniques to protect public water supplies or fish and wildlife resources from continuing damage.

(b) Pollutants and contaminated materials recovered in cleanup operations shall be disposed of in accordance with regional and local contingency plans (see § 1510.42(a)).

§ 1510.55 Phase V—Documentation and cost recovery.

(a) Documentation and cost recovery may involve a variety of actions, depending on the discharge. Recovery of Federal removal costs and recovery for damage done to Federal, State, or local government property is included. Damages to private citizens (including loss of earnings) are not addressed by this Plan. OSCs shall furnish documentation required by the revolving fund administrator to support Federal efforts to recover costs from responsible parties. Procedures to be followed to fulfill documentation requirements are specified in the Coast Guard directives in the 16450.1 series.

(b) Information and samples needed for legal and scientific purposes shall be collected during this phase. Information and samples are necessary for later identification of financially responsible parties, for scientific understanding of the environment, and for research and development. The samples and information must be gathered at the proper time during the removal operations, because otherwise wind and current may disperse the evidence.

(1) All agencies shall follow uniform procedures, described in Annex VI, for collection of samples and information.

(2) The OSC shall take necessary actions during response phases to ensure necessary collection and safeguarding of information, samples, and reports.

(c) The information and reports obtained by the OSC shall be transmitted to the RRC. Copies will then be forewarded to the NRC, members of the RRT, and others as appropriate.

§ 1510.56 Pollution reports.

(a) Within 60 days after the conclusion of a major pollution discharge and when requested by the RRT, the OSC shall submit to the RRT a complete report on the response operation and the actions taken. The OSC shall at the same time send a copy of the report to the NRT. The RRT shall review the OSCs report and submit the report and an endorsement to the NRT for review. This shall be accomplished within 30 days after the report has been received.

(b) The OSC's report shall accurately record the situation as it developed, the actions taken, the resources committed and the problems encountered. The OSC's recommendations, based on these experiences, are a source for new procedures and policy.

(c) The format for OSC's reports will be as follows:

(1) *Summary of Events.*—This part is a chronological narrative of all events, including:

(i) The cause of the incident;

(ii) The initial situation;

(iii) The organization of the response; and

(iv) The resources committed.

These sections may be presented separately or included in the narrative. If applicable, the following information will also be included:

(v) The location (water body, State, city, latitude and longitude) of the spill; whether the discharge was in connection with activities regulated under the OCSLA or Deepwater Port Act; or whether it might have or actually did affect natural resources under the exclusive management authority of the United States;

(vi) Details of Federal or State efforts to replace or restore damaged natural resources; and

(vii) Details of any threat abatement actions taken under sections 311(c) or (d) of the Act.

(2) *Effectiveness of Response and Removal Actions.*—This part should candidly and thoroughly analyze the effectiveness of the response and removal actions taken by:

(i) The discharger;

(ii) State and local forces;

(iii) Federal agencies and special forces; and

(iv) (If applicable) contractors, private groups and volunteers.

(3) *Problems Encountered.*—This part should list any problems encountered and describe how they affected the response. Particular attention should be given to any problems of intergovernmental coordination that may have occurred.

(4) *Recommendations.*—This section should include all recommendations of the OSC. An endorsement from the RRT shall be included. At a minimum the following areas should be covered;

(i) Means to prevent a recurrence of the incident;

(ii) Improvement of response actions.

Any recommended changes in the regional or National contingency plans should also be included.

§ 1510.57 Special considerations.

(a) *Safety of personnel.*—Actual or potential polluting discharges threatening damage to air and water can also threaten human health and safety. The OSC should be aware of the hazards, should exercise great caution in allowing civilian or government personnel into the affected area until the nature of the substance discharged is known, and due caution should be exercised thereafter. Local contingency plans shall identify sources of information on anticipated hazards, precautions, and requirements to protect personnel during response operations. Names and phone numbers of people with relevant information shall be included.

(b) *Waterfowl conservation.*—Oil discharges, particularly in estuarine and near shore areas, often cause severe stress to resident and migratory bird species. The DOI representative and the state liaison to the RRT shall arrange for and coordinate actions of professional and volunteer groups wishing to participate in waterfowl dispersal, collection, cleaning, rehabilitation, and recovery activities. Regional and local contingency plans shall, to the extent practicable, identify organizations or institutions that are willing to participate in such activities and operate such facilities. Waterfowl conservation activities will normally be included in Phase III and Phase IV response actions (§§ 1510.53 and 1510.54 of this subpart).

Subpart F—Coordinating Instructions

§ 1510.60 Delegation of authority.

As provided by Annex X of this Plan, EPA delegation of authority or concurrence in the use of chemical pollution control activities initially may be oral; however, written confirmation by the EPA representative on the RRT

should be completed as soon as possible.

§ 1510.62 Multi-regional actions.

(a) If a discharge or a potential discharge moves from the area covered by one Federal local or regional contingency plan into another area, the authority for pollution control actions shall likewise shift. If a polluting discharge or potential discharge affects areas covered by two or more regional plans, the response mechanism of both plans shall be activated. In this case, pollution control actions of all regions concerned shall be fully coordinated as detailed in the regional plans.

(b) There shall be only one OSC at any time during the course of a response operation. Should a discharge affect two or more areas, the EPA and USCG will designate the OSC, giving prime consideration to the area vulnerable to the greatest damage. The RRT shall designate the OSC if EPA and USCG members are unable to agree on designation. The NRT shall designate the OSC if members of one RRT or of two adjacent RRTs are unable to agree on the designation.

§ 1510.63 General pattern of response actions.

(a) When the OSC receives a report of a discharge or potential discharge, he should normally take action in the following sequence:

(1) Investigate the report to determine pertinent information such as the threat posed to public health or welfare, the type and quantity of material discharged, and the source of the discharge.

(2) Notify RRT members and the Scientific Support Coordinator, in accordance with the applicable regional plan.

(3) Determine, in accordance with section 311(c)(1) of the Act, whether the discharger (that is, the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs) is properly carrying out removal actions. Removal is being done properly when:

(i) The discharger's cleanup is fully sufficient to minimize or mitigate damage to the public welfare. The discharger's removal efforts are "improper" to the extent that Federal efforts are necessary to prevent further damage; and

(ii) The discharger's removal efforts are in accordance with applicable regulations and guidelines, including this Plan, especially Annex X.

(4) Officially classify the severity of the discharge and determine the course of action to be followed.

(5) Determine whether state action to effect removal is necessary within the meaning of section 311(c)(2)(H) of the Act (See § 1510.65(h)).

(b) The preliminary inquiry will probably show that the situation falls into one of five classes. These classes and the appropriate response to each are outlined below:

(1) If the investigation shows that the initial information overstated the magnitude or danger of the discharge and no environmental pollution or potential pollution is involved, the case shall be considered a false alarm and should be closed.

(2) If the investigation shows a minor discharge with the discharger taking appropriate removal action, contact should be established with the discharger. The removal action should be monitored to insure continued proper action by the discharger.

(3) If the investigation shows a minor discharge with improper removal action being taken, the following measures shall be taken:

(i) An immediate effort should be made to prevent further discharges from the source.

(ii) The discharger shall be advised of the proper action to be taken.

(iii) If the discharger does not follow this advice, warning of the discharger's liability for the cost of removal, pursuant to § 311(f) of the Act, shall be given.

(iv) The OSC shall notify appropriate state and local officials. He shall keep the RRC advised and initiate Phase III and IV operations as conditions warrant.

(v) Information shall be collected for possible recovery of removal costs when removal is effected in accordance with § 1510.55.

(4) When a report of investigation indicates that a medium discharge has occurred, or the potential for a medium discharge exists, the OSC shall follow the same general procedures as for a minor discharge. Additionally, the OSC shall make a recommendation concerning team activation to the chairman of the RRT.

(5) When a report indicates that a major discharge has occurred, a potential major pollution emergency exists, or that a discharge or potential discharge which could arouse wide public concern has occurred, the OSC shall follow the same procedures as for minor and medium discharges. The RRC and NRC shall, however, be notified immediately of the situation even if the initial report has not been confirmed.

§ 1510.64 Special forces available to the OSC.

(a) The National Strike Force consists of the Strike Teams established by USCG on the East, West and Gulf Coasts and includes the emergency task forces to provide assistance to the OSC during Phase II, IV, and V operations as the circumstances of the situation dictate. When possible, the Strike Teams will provide training to the emergency task forces and participate with the RRT in regional and local contingency plan development.

(1) The Strike Teams can provide communications support, advice, and assistance for oil and hazardous substances removal. These teams also have knowledge of ship salvage, damage control, diving and removal techniques. Additionally, they are equipped with specialized containment and removal equipment, and have rapid transportation available.

(2) Emergency task forces, established by the USCG at major ports pursuant to section 311(c)(2)(C) of the Act, consist of trained personnel with supplies of oil and hazardous substances pollution control equipment and materials, and detailed discharge removal plans for their areas of responsibility.

(3) The Strike Teams will respond to requests for assistance from the OSC. Requests for a team may be made directly to the Commanding Officer of the appropriate team, the Coast Guard member of the RRT, the appropriate area commander, USCG, or to the Commandant, USCG through the NRC. Emergency task forces work directly for the OSC and are accessible through those offices.

(b)(1) The Environmental Response Team (ERT) is established by EPA in accordance with its disaster and emergency responsibilities. The ERT includes expertise in biology, chemistry and engineering. It can provide access to special decontamination equipment for chemical spills and advice to the OSC on:

(i) Cleanup techniques and priorities;

(ii) Water supply contamination and protection;

(iii) Application of dispersants;

(iv) Habitat restoration; and

(v) Disposal of contaminated material.

The ERT will be especially useful to the OSC in hazardous substances spill response and in damage assessment for all spills.

(2) The OSC or RRT requests for ERT support should be made to the EPA representative on the RRT, the EPA Headquarters emergency coordinator or the appropriate EPA regional emergency coordinator.

(c)(1) Scientific support is organized by EPA and NOAA, with assistance from DOI, to support the OSC by providing scientific assistance including: oceanography, chemistry, location of environmentally sensitive areas, assessment of environmental damage and coordination of on-scene scientific activity. Generally, the Scientific Support Coordinator (SSC) for coastal oil spills will be provided by NOAA and those for inland spills will be provided by EPA. This delineation of responsibility may be modified within a region by agreement between DOC, DOI and EPA representatives to the RRT.

(2) Scientific support coordinators serve as advisors to the RRT and OSC in planning and on the OSC staff during major spill response operations.

(i) In planning, the SSC works with the RRT to identify vulnerable resources within the region and to establish and maintain a scientific support structure within the region. The structure should be adequate to provide the OSC with well qualified scientific assistance. Specific responsibilities of the SSC in planning are:

(aa) Establish contact with the scientific community within the region, including State, local, university, industry and others, to determine the existing capability to perform damage assessment that may be necessary in support of the OSC. In those regions whose states have well developed scientific organizations, they should be employed to support the OSC.

(bb) Organize the development of those portions of regional and local contingency plans that deal with scientific support to the OSC and the responsibilities of agencies that must perform damage assessment of pollution incidents. The SSC shall advise each OSC of scientists who can provide scientific advice in assessing effects of spills in localized areas.

(cc) Identify, in cooperation with the region's scientific community, research (basic or applied, data gathering, processing, etc.) required to support the OSC in mitigating the effects of spills and improve the existing capability to support damage assessment.

(ii) When requested by the OSC, the SSC will function as a member of the OSC's staff. In that capacity, the SSC functions as the liaison between the scientific community and the OSC. The extent and nature of SSC involvement in the operational mode shall be determined by the OSC. In order to provide an orderly and intelligible flow of information to the OSC, act as a mediator among differing scientific opinions, and advise the OSC on use by scientific personnel of limited common resources such as aircraft and vessels, the SSC shall:

(aa) Coordinate response from scientific to OSC requests for assistance and to requests from RRT agencies for performance of damage assessment investigations; coordinate responses and requests from scientists interested in performing research on spills.

(bb) Serve as the principal liaison for scientific advice from the scientific community to the OSC. The SSC shall ensure that differing scientific views within the scientific community are communicated to the OSC in timely manner.

(3) The SSC will respond to requests for assistance from the OSC or from the chairman of the appropriate RRT. Details on provision of the access to scientific support shall be included in regional contingency plans.

(d) The activation or involvement of any special forces shall not relieve the OSC of any responsibilities for notification and activation of any member agency of the RRT concerning a pollution incident. The activation and involvement of any special forces will not replace or impede the response actions of any RRT agencies in carrying out responsibilities outlined in § 1510.22, or in providing advice or assistance to the OSC or RRT relative to a pollution incident.

§ 1510.65 Funding.

(a) If the person responsible for the discharge or threat of discharge does not act promptly, or take proper removal actions, or if the person responsible for the discharge is unknown, Federal discharge removal actions may begin under section 311(c)(1) of the Act. The discharger, if known, is liable for the costs of Federal removal in accordance with section 311(f) of the Act.

(b) Actions undertaken by the participating agencies in response to pollution shall be carried out under existing programs and authorities insofar as practicable. This Plan intends that Federal agencies will make resources available, expend funds, or participate in response to pollution incidents under their existing authority. Authority to expend resources will be in accordance with agencies' basic statutes and, if required, through cross-servicing agreements. Specific interagency reimbursement agreements may be signed when necessary to ensure that the Federal resources will be available for a timely response to a pollution incident. The ultimate decision as to the appropriateness of expending funds rests with the agency that is held accountable for such expenditures.

(c) A pollution revolving fund, administered by the Commandant, USCG, has been established pursuant to section 311(k) of the Act. Regulations governing the administration and use of the fund are contained in 33 CFR Part 153. The OSC shall exercise sufficient control over removal operations to be able to certify that reimbursement from the fund is appropriate.

(d) Funding of response actions other than removal, such as scientific investigations not in support of removal actions or law enforcement, shall be provided by the agency with legal responsibility for those specific actions.

(e) The funding of removal actions necessitated by a discharge from a Federally operated or supervised facility or vessel is the responsibility of the operating or supervising agency.

(f) The following agencies have funds available for certain discharge removal actions:

(1) The EPA can provide funds to begin timely discharge removal actions when the OSC is an EPA representative. Because EPA does not have funds authorized for this purpose, operating program funds may be used to initiate Phase III and IV activities; funding of continuing Phase III and IV actions, however, shall be determined on a case-by-case basis by the Oil and Special Materials Control Division at EPA.

(2) The USCG pollution control efforts are funded under "operating expenses." These funds are used in accordance with agency directives and applicable regional plans.

(3) The Department of Defense has two specific sources of funds which may be applicable to a pollution incident under appropriate circumstances. (This does not consider military resources which might be made available under specific conditions.)

(i) Funds required for removal of a sunken vessel or similar obstruction of navigation are available to the Corps of Engineers through Civil Functions Appropriations, Operations and Maintenance, General.

(ii) The U.S. Navy has funds available on a reimbursable basis to conduct salvage operations.

(g) Certain emergency response activities under this plan may qualify for reimbursement as disaster relief functions. In making a declaration of a "major disaster" or a determination that an "emergency" exists, the President may allocate funds from his Disaster Relief Fund, managed by the Director, Federal Emergency Management Agency. The Director may then authorize certain reimbursements to Federal agencies for assistance provided under direction of his office. (See Title

24, CFR Chapter XIII, Part 2201, "Reimbursement of Other Federal Agencies under Pub. L. 91–606 (For use under Pub. L. 93–288 until revised).) The Director, FEMA, may also make financial assistance available to state governments and, through the states, to local governments (See Title 24, CFR Chapter XIII, Part 2205, "Federal Disaster Assistance").

(h) Pursuant to section 311(c)(2)(H) of the Act, the State or States affected by a discharge of oil or hazardous substances may act where necessary to remove such discharge and may, pursuant to 33 CFR Part 153, be reimbursed from the pollution revolving fund for the reasonable costs incurred in such removal.

(1) Removal by a state is necessary within the meaning of section 311(c)(2)(H) of the Act when the OSC determines that the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs cannot effect removal properly and that:

(i) State action is required to minimize or mitigate significant damage to the public health or welfare which Federal action cannot minimize or mitigate, or

(ii) Remove or partial removal can be done by the State at a cost which is less than or not significantly greater than the cost which would be incurred by the Federal departments or agencies.

(2) State removal actions must be in compliance with Annex X of this Plan in order to qualify for reimbursement.

(3) State removal actions are considered to be Phase III or Phase IV actions, under the same definitions applicable to Federal agencies.

(4) Actions taken by local government in support of Federal discharge removal operations are considered to be actions of the State for purpose of this section.

(i) Regional and local contingency plans shall show what funds and resources are available from participating agencies under various conditions and cost arrangements. Interagency agreements may be necessary to specify when reimbursement is required.

Annex I—1100 Distribution

1101 Plan Distribution

1101.1 This Plan will be distributed to designated offices of participating Agencies, state and interstate water pollution control agencies and such other Federal, state, local and private agencies and organizations which are cooperating with and participating in activities in support of the Plan.

1101.2 Included in this formal distribution are the following:

Department of Agriculture
Department of Commerce
Department of Defense
Department of Energy
Department of Health, Education and Welfare
Department of the Interior
Department of Justice
Department of Labor
Department of State
Department of Transportation
Environmental Protection Agency
Federal Emergency Management Agency
All state representatives to regional response teams
All state water pollution control agencies
All interstate water pollution control agencies
Other Federal, state, local and private agencies and organizations, as appropriate

1101.3 Formal distribution of the Plan and amendments will be made by the Environmental Protection Agency.

1102 Amendment, Distribution and Format

1102.1 Amendments to the Plan and annexes will be made by sequentially numbered changes. Numbered changes will be effected by means of a transmittal sheet which identifies the Plan, the change number and date, the page numbers affected by the change and any other instructions deemed necessary for purpose of clarity or to make special emphasis or explanation of the change. There will be attached to the transmittal sheet the revised or added pages with the change number and current date on each page at the upper right hand corner.

1102.2 Where a change can be effected merely by pen and ink, the transmittal sheet may be used to accomplish the change without submission of revised pages. The use of pen and ink changes is limited to those cases where existing matter is being deleted or is of minor extent.

1102.3 Asterisks will be used to indicate changes. For line changes, an asterisk will be placed before and after each sentence change in the left and right page margins. For paragraph changes, an asterisk will be placed before and after each paragraph changed and if continued on the next page, an asterisk will be placed at the top of the page and the end of the paragraph. For a paragraph deletion, as asterisk will be placed in the left margin and the paragraph number or letter will be retained in the original sequence followed by the word "Rescinded" in parentheses.

1102.4 If the Plan is completely rewritten, asterisks will not be used supersession will be indicated at the bottom of the first page.

Annex II—Formats for Regional and Local Contingency Plans

Regional Contingency Plan

Letter of Promulgation.
Record of Amendments.
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List of Effective Pages.

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102 Purpose and Objectives.
103 Scope.
104 Abbreviations.
105 Definitions.

200 Policy and Responsibility

201 Federal Policy.
202 Multi-National Policy.
203 Federal Responsibility.
204 Non-Federal Responsibility.

300 Planning and Response Organization

301 Spill Response Activity and Coordination—General.
302 Regional Response Team.
303 Regional Response Center.
304 On-Scene Coordination.
305 Special Forces.

400 Coordinating Instructions

401 Delegation of Authority.
402 Notification.
403 Multi-regional Responses.
404 Multi-national Responses.
405 Coordination with Special Forces.
406 Termination of Response Activities.
407 Resolution of Disputes.

500 Procedures for Reviewing and Updating the Regional and Local Contingency Plans

501 Responsibility.
502 Procedures for Review.

Annex I—1100 Distribution.
Annex II—1200 Regional Response Team.
Annex III—1300 Regional Response Center.
Annex IV—1400 Geographical Boundaries.
Annex V—1500 Notifications, Communications and Reports.
Annex VI—1600 Public Information.
Annex VII—1700 Legal Authorities.
Annex VIII—1800 Documentation for Enforcement and Cost Recovery.
Annex IX—1900 Funding.
Annex X—2000 Cleanup Techniques and Policies.
Annex XI—2100 Arrangements for Participation of Non-Federal Groups.
Annex XII—2200 Interagency Support Agreements/Arrangements.
Annex XIII—2300 State Contingency Plans.
Annex XIV—2400 Multi-national Contingency Plans.
Annex XV—2500 Regional Data Base.
Annex XX—3000 National Contingency Plan.

Local Contingency Plans

Letter of Promulgation.
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Table of Contents.
List of Effect Pages.

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102 Purpose and Objective.
103 Scope.
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105 Definitions.

200 Policy and Responsibility

201 Federal Policy.
202 Related State Policy.
203 Multi-national Policy.
204 OSC Responsibility.
205 Non-Federal Responsibility.

300 Planning and Response Considerations

301 Oil and Hazardous Substances Transportation Pattern.
302 Transfer Storage and Processing Facilities.
303 Historical Spill Considerations.
304 Hydrological and Climatological Considerations.
305 Local Geography.
306 Highly Vulnerable Areas.
307 Local Response Resources.

308 Waterfowl Conservation.
309 Endangered Species.

400 Response Organization.

500 Operational Response Actions

600 Coordination Instructions

601 Delegation of Authority.
602 Notification.
603 Coordination with Special Forces.
604 Termination of Response Activities.
605 Resolution of Disputes.

700 Procedures for Reviewing and Updating the Local Contingency Plan

Annex I—1100 Distribution.
Annex II—1200 Pollution Response Personnel Assignments.
Annex III—1300 Geographical Boundaries.
Annex IV—1400 Notifications, Communications and Reports.
Annex V—1500 Public Information.
Annex VI—1600 Documentation for Enforcement and Cost Recovery.
Annex VII—1700 Funding.
Annex VIII—1800 Clean up Techniques and Policies.
Annex IX—1900 Arrangements for Non-Federal Groups.
Annex X—2000 Interagency Support.
Annex XI—2500 Geographical/Action Directory.
Annex XVI—2600 Response/Assistance Directory.

Annex III—Regions and Office Locations of EPA and the Coast Guard

1300 Geographical Boundaries

Regional contingency plans shall be based upon the Standard Federal Regions. Local plans shall be based upon the subregional area, for which each OSC is responsible for responding to pollution incidents. These plans are available for inspection at EPA regional offices or USCG district offices as shown in 1301 and 1302. Other agencies' addresses and telephone numbers may be found in the United States Government Manual (issued annually) or in the local telephone directories.

1301 Environmental Protection Agency—Office addresses, telephone numbers, and map.

1302 Department of Transportation—United States Coast Guard district offices addresses, telephone numbers, and map.

Environmental Protection Agency, Region I Room 2303, John F. Kennedy Federal Bldg., Boston, MA 02203, Tel: (617) 223–7265.
Environmental Protection Agency, Region II, Room 908, 26 Federal Plaza, New York, NY 10007, Tel: (201) 548–8730.
Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, Tel: (215) 597–9898.
Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, GA 30308, Tel: (404) 881–4062.
Environmental Protection Agency, Region V, 536 South Clark Street, Chicago, IL 60605, Tel: (312) 353–2318.
Environmental Protection Agency, Region VI, 1201 Elm Street, First International Bldg., Dallas, TX 75270, Tel: (214) 749–3840.
Environmental Protection Agency, Region VII, 1735 Baltimore Street, Kansas City, MO 64108, Tel: (816) 374–3778.
Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, CO 80295, Tel: (303) 837–3880.
Environmental Protection Agency, Region IX, 215 Freemont Street, San Francisco, CA 80295, Tel: (303) 837–3880.
Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, WA 98101, Tel: (206) 442–1200.

BILLING CODE 3128-01-M

BILLING CODE 3125-01-C

1302 Department of Transportation, U.S. Coast Guard Districts

1st Coast Guard District, 150 Causeway Street, Boston, MA 02114, Duty Officer: (617) 223–3645.

2nd Coast Guard District, 1430 Olive Street, St. Louis, MO 63101, Duty Officer: (314) 425–4614.

3rd Coast Guard District, Governors Island, New York, NY 10004, Duty Officer: (212) 668–7055.

5th Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705, Duty Officer: (804) 398–6231.

7th Coast Guard District, Room 1018, Federal Building, 51 SW 1st Avenue, Miami, FL 33130, Duty Officer: (305) 350–5611.

8th Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Duty Officer: (504) 589–6225.

9th Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199, Duty Officer: (216) 293–3984.

11th Coast Guard District, Union Bank Building, 400 Oceangate Boulevard, Long Beach, CA 90822, Duty Officer: (213) 590–2225.

12th Coast Guard District, 630 Sansome Street, San Francisco, CA 94126, Duty Officer: (415) 556–5500.

13th Coast Guard District, 915 2nd Avenue, Seattle, WA 98174, Duty Officer: (206) 442–5006.

14th Coast Guard District, Prince Kalanianaole Fed. Bldg., 300 Ala Moana, Honolulu, HI 96850, Duty Officer: (808) 546–7109 (commercial only), AUTOVON—(315) 430–0111.

17th Coast Guard District, P.O. Box 3–5000, Juneau, AK 99802, Duty Officer: (907) 586–7340 (commercial only), AUTOVON—(317) 388–7340.

BILLING CODE 3125-01-M

UNITED STATES DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD DISTRICTS

BILLING CODE 3125-01-C

Annex IV

1400 Legal Authorities.

1400.1 Federal statutes relative to control of pollution by oil and hazardous substances are administered by several departments and agencies. The following is a tabular summary of the most important of these authorities:

Statute and Agency(ies)

1411 Federal Water Pollution Control Act, as amended (33 USC 1251, et. seq.), EPA, USCG, CORPS, Justice

1412 Safe Drinking Water Act amendment to the Public Health Service Act (42 USC 201); EPA

1413 Refuse Act of 1899 (33 USC 407; 411); CORPS, USCG, Customs, Justice

1414 Toxic Substances Control Act, 1976 (42 USC 2601); EPA

1415 Resources Conservation and Recovery Act of 1976 (42 USC 6901); EPA

1416 Marine Protection, Research and Sanctuaries Act of 1976 (33 USC 1401 et. seq.); EPA, USCG, NOAA, CORPS

1417 Hazardous Materials Transportation Act of 1974 (49 USC 1801 et. seq.); DOT

1418 Ports and Waterways Safety Act as amended (33 USC 1221, et. seq.); USCG

1419 Federal Insecticide, Fungicide and Rodenticide Act of 1972 (7 USC 121 et. seq.); EPA

1420 Deepwater Port Act of 1974 (33 USC 1501 et. seq.); DOT, DOI

1421 Outer Continental Shelf Lands Act, as amended (43 USC 1331); DOI, DOT

1422 Oil Pollution Act of 1961, as amended (33 USC 1001–1001.5); USCG, Customs, CORPS, State

1423 Endangered Species Act of 1973, as amended (16 USC 1531); FWS, NOAA

1424 Intervention on the High Seas Act (33 USC 1471–1487); USCG

1430 Related Federal statues, not specific to oil and hazardous substances pollution control, but, nonetheless, applicable to discharge prevention and cleanup in certain cases are:

1431 Disaster Relief Act of 1974; FEMA, All Federal agencies

1432 U.S. Navy Ship Salvage Authority; U.S. Navy

1433 The Migratory Bird Treaty Act (16 USC 701–718); FWS

1440 Important International Conventions and Agreements relative to oil and hazardous substances pollution control and liability are:

1441 International Convention for the Prevention of Pollution of the Sea by Oil, 1954, and amendments

1442 Convention on the Territorial Sea and the Contiguous Zone

1443 Convention between the Government of the United States and the Government of Japan for the Protection of Migratory Birds in Danger of Extinction, and Their Environment

1444 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter

Annex V.—Communication Services Available in National Response Center

1501 Telephone (voice) services available include:

1501.1 Commercial telephone available 24 hours per day, free (800) 424–8802 (or 426–2675 in the Washington, D.C. local calling area);

1501.2 AUTOVON (Automated Voice Network)—General purpose switched voice network of Defense Communications Systems, which serves Continental U.S., Alaska, Europe, Pacific, and Panama;

1501.3 Washington Tactical Switchboard—Pentagon terminal of the tactical telephone system, operated by USAF;

1501.4. FTS—GSA operated government administrative telephone system; and

1501.5 SARTEL—Search and Rescue Command Coordination telephone network including leased Hotline telephone net extending from Halifax to New Orleans.

1502 *Teletypewriter services available include:*

1502.1 AUTODIN—A worldwide high speed user data communications system operated for and managed by the DCA to provide both direct user-to-user and store and forward message switching service for DOD and other government agencies;

1502.2 SARLANT—Coast Guard-leased teletypewriter system extending from Massachusetts to Texas (used to control and coordinate search and rescue incidents and to handle other operational traffic and priority administrative communications);

1502.3 SARPAC—Same as 2.2 for the West Coast U.S.; and

1502.4 TELEX—Teletypewriter exchange service provided by Western Union that serves Continental U.S., industry and government offices. TELEX also permits direct connections.

Annex VI.—Sample Collection Procedures

1601 Sample collection procedures to be followed by OSC:

1601.1 Several precautions must be observed when taking and handling liquid samples for analyses as the character of the sample may be affected by a number of common conditions. These precautions concern the following: (a) The composition of the container; (b) cleanliness of the container; and, (c) manner in which the sample is taken.

1601.2 In taking such samples, the following procedures are to be followed in all cases:

1601.2–1 Glass or other appropriate containers of suitable size shall be used. The portion of the closure (sealing gasket or cap liner) which may come into contact with the sample in the container is of considerable importance. When oil or petroleum hydrocarbons are to be sampled, the closure should be made of glass, aluminum foil, or teflon. Pollutants other than oil may require special precautions such as jacketing of glass containers or different closure material. The analysis laboratory should be consulted whenever a question arises to the appropriateness of any packaging material.

1601.2–2 Previously unused containers are preferred. Containers that have been cleaned with a strong detergent, thoroughly rinsed, and dried may be used.

1601.2–3 Some explanatory notes governing the above procedures are as follows: (a) Glass or other appropriate containers always must be used because plastic containers, with the exception of teflon, have been found in some cases to absorb organic materials from water and, in other cases, compounds have been dissolved from plastic containers; (b) as it is desirable to take a large sample of the pollutant, proper skimming techniques should be used to obtain a sufficient amount of oil for analysis; and (c) because pollution conditions change rapidly, samples should be taken promptly, and the time sequences and locations noted.

1601.2–4 Consult with the analysis laboratory personnel relative to special samples and unusual problems.

1601.2–5 Samples collected are to be transmitted for analysis, using special courier or registered mail (return receipt requested). Appropriate analytical laboratories are designated in the regional plan. Reports of laboratory analysis will be forwarded to the appropriate RRT for transmittal to counsel.

Annex VII.—1700 Technical Information

1701 Technical Library

1701.1 A technical library of pertinent pollution control documents will be maintained in the NRC and in each RRC. Such information should be useful as reference information to the experienced OSC and instructional to less experienced personnel.

1702 Specific References

1702.1 As a minimum, the following reference documents will be maintained in the NRC and in each RRC technical library.

1702.1–1 Current National Oil and Hazardous Substances Pollution Contingency Plan.

1702.1–2 Current Regional and State Oil and Hazardous Substances Pollution Contingency Plan.

1702.1–3 Current Directory of the American Council of Independent Laboratories.

1702.1–4 Encyclopedia of Chemical Technology, 22 Vol., Kirkothmer, 2nd edition c1963–1971, John Wiley & Sons, New York, New York.

1702.1–5 Chemical Data Guide for Bulk Shipment by Water (U.S. Coast Guard CG–388)

1702.1–6 U.S. Army Corps of Engineers' Regulations ER 500–1–1 and ER 500–1–8 Emergency Employment of Army Resources (Natural Disaster Activities).

1702.1–7 Federal Disaster Assistance Program-Handbook for Applicants FDAA 3300.1, July 1973.

1702.1–8 Federal Disaster Assistance Program-Eligibility Handbook 3300.2, July 1973.

1702.1–9 Federal Disaster Assistance Program-Handbook for State and Federal Officials 3000.4, December 1973.

1702.1–10 Handbook of Toxicology (National Academy of Sciences/National Resource Council).

1702.1–11 46 CFR–146. Transportation or Storage of Explosives or Other Dangerous Articles or Substances, and Combustible Liquids on Board Vessels.

1702.1–12 33 CFR, 3, 5, 121, 122, 124–6. Security of Vessels and Waterfront Facilities (USCG CG 239).

1702.1–13 33 and 40 CFR parts implementing section 311 of the Federal Water Pollution Control Act, as amended.

1702.2 In addition to the library specified above, the RRC should have provision, either in publications or by computer terminal, for access to the EPA Technical Assistance Data System, (TADS) and the USCG Chemical Hazard Response Information System (CHRIS).

Annex VIII Definitions of Terms

1801 API gravity. An empirical scale for measuring the density of liquid petroleum products, the unit being called the "degree API".

1802 Ash. Inorganic residue remaining after ignition of combustible substances determined by definite prescribed methods.

1803 Asphalts. Black, solid or semi-solid, bitumens which occur in nature or are produced as residues during petroleum refining.

1804 Bilge oil. Waste oil which accumulates, usually in small quantities, in the lower spaces in a ship, just inside the hull plating. Usually mixed with larger quantities of water.

1805 Blowout. A sudden, violent escape of gas and oil from an oil well when high pressure gas is encountered and preventive measures have failed.

1806 Boiling point. The temperature at which the vapor pressure of a liquid is equal to atmospheric pressure.

1807 Bunker "C" oil. General term used to indicate a heavy viscous fuel oil.

1808 Bunker fuel. General term for heavy oils used as fuel on ships and in industry. It often refers to No. 5 and 6 fuel oils.

1809 Bunkering. The process of loading fuel aboard ship.

1810 Conversion tables. (Approximate Conversions).

Materials	Barrel per ton (long)
Crude oils	6.7–8.1
Aviation gasolines	8.3–9.2
Motor gasolines	8.2–9.1
Kerosenes	7.7–8.3
Gas oils	7.2–7.9
Diesel oils	7.0–7.9
Lubricating oils	6.8–7.6
Fuel oils	6.6–7.0
Asphalt bitumens	5.9–6.5

(As a general rule-of-thumb, use 6.5 barrels or 250 gallons per ton of oil.)

1811 Crude oil. Petroleum as it comes from the earth. There may be several thousands of different substances in crude oil, some of which evaporate quickly while others persist indefinitely. The physical characteristics of crude oils may vary widely. Crude oils are often identified in trade jargon by their regions of origin. This identification may not relate to the apparent physical characteristics of the oil. Commercial gasoline, kerosene, heating oils, diesel oils, lubricating oils, waxes, and asphalts are all obtained by refining crude oil.

1812 Demulsibility. The resistance of an oil to emulsification, or the ability of an oil to separate from any water with which it is mixed. The better the demulsibility rating, the more quickly the oil separates from water.

1813 Density. Density is the term meaning the mass of a unit volume. Its numerical expression varies with the units selected.

1814 Emulsion. A mechanical mixture of liquids which do not naturally mix as oil and water. Water-in-oil emulsions have the water as the internal phase and oil as the external phase. Oil in water emulsions have oil as the internal phase.

1815 Fire point. The lowest temperature at which an oil vaporizes rapidly enough to burn for at least *5 seconds* after ignition, under standard conditions.

1816 Flash point. The lowest temperature at which an oil gives off sufficient vapor to form a mixture which will ignite, under standard conditions.

1817 Fraction. Refinery term for a product of fractional distillation having a restricted boiling range.

1818 Fuel oil grade. Numerical ratings ranging from 1 to 6. The lower the grade number, the thinner the oil is and the more easily it evaporates. A high number indicates a relatively thick, heavy oil. Number 1 and Number 2 fuel oils are usually used in domestic heaters, and the others are used by industry and ships. Number 5 and Number 6 oils are semi-solids that must be liquified by heating. Kerosene, coal oil, and range oil are all Number 1 oil. Number 3 is no longer used as a standard term for fuel oil.

1819 Innage. Space occupied in a product container.

1820 In personem. An action in personem is instituted against an individual, usually through the personal service of process, and may result in the imposition of liability directly upon the person of a defendant.

1821 In rem. An action in which the vessel or thing itself is treated as the offender and made defendant without any proceeding against the owners or even mentioning their names. The decree in an action in rem is enforced directly against the condemnation and sale thereof.

1822 Load On Top (LOT). A procedure for ballasting and cleaning unloaded tankers without discharging oil. Half of the tanks are first filled with seawater while the others are cleaned by hosing. Then oil from the cleaned tanks, along with oil which has separated out in the full tanks, is pumped into a single slop tank. The clean water in the full tanks is then discharged while the freshly-cleaned tanks are filled with seawater. Ballast is thus constantly maintained.

1823 Oil films. A slick thinner than .0001 inch and may be classified as follows:

Standard term	Gallons of oil per square mile	Appearance
"Barely visible"	25	Barely visible under most favorable light conditions.
"Silvery"	50	Visible as a silvery sheen on surface of water.
"Slightly colored"	100	First trace of color may be observed.
"Brightly colored"	200	Bright bands of color are visible.

1833 Tonnage. There are various tonnages applied to merchant ships. The one commonly implied is gross tonnage although in these days tankers and other bulk-carriers are often referred to in terms of deadweight.

1833.1 Gross tonnage. 100 cubic feet of permanently enclosed space is equal to one gross ton—nothing whatever to do with weight. This is usually the registered tonnage although it may vary somewhat according to the classifying authority or nationality.

1833.2 Net tonnage. The earning capacity of a ship. The gross tonnage after deduction of certain spaces, such as engine and boiler rooms, crew accommodations, stores, equipment, etc. Port and harbor dues are based on this tonnage.

1833.3 Displacement tonnage. The actual weight in tons, varying according to whether a vessel is in light or loaded condition. Warships are always spoken of by this form of measurement.

1833.4 Deadweight tonnage. The actual weight in tons of cargo, stores, etc., required to bring a vessel down to her load line, from the light condition. Cargo deadweight is, as its name implies, the actual weight in tons of the cargo when loaded, as distinct from stores, ballast, etc.

1834 Ullage. The amount by which a tank or vessel lacks being filled. (See also Outage).

1835 Viscosity. The property of liquids which causes them to resist instantaneous change of shape, or instantaneous rearrangement of their parts, due to internal friction. The resistance which the particles of a liquid offer to a force tending to move them in relation to each other. Viscosity of oils is usually expressed as the number of seconds at a definite temperature required for a standard quantity of oil to flow through a standard apparatus.

1836 Viscous. Thick, resistance to flow, having a high viscosity.

1837 Volatile. Evaporates easily.

Annex X—Schedule of Chemical and Other Additives to Remove Oil and Hazardous Substances Discharges

2001 General

2001.1 This Schedule has been prepared by the U.S. Environmental Protection Agency pursuant to section 1(2) of Executive Order 11735. This Schedule applies to the waters of the United States and adjoining shorelines, the waters of the Contiguous Zone, and the high seas beyond the Contiguous Zone in connection with activities under the Outer Continental Shelf Lands Act or the Deep Water Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).

2001.2 This Schedule applies to the use of any chemicals or other additives as hereinafter defined that may be used to remove oil and remove or neutralize hazardous substances discharges. Any chemical agent or other substance not specifically defined in this schedule will be considered by EPA on a case-by-case basis for use in the removal of oil and hazardous substances discharges.

2001.3 This Schedule favors development and utilization of sorbents, skimmers, booms and other mechanical control methods to remove or mitigate oil and remove, mitigate, or neutralize hazardous substances discharges from the environment with subsequent proper disposal.

2001.4 It is the intent of this Schedule that the use of chemicals and additives to remove or mitigate the effects of oil or hazardous substances discharges shall cause the least overall environmental impact.

2001.5 In implementing this Schedule and in maintaining its relationship with other Federal and State agencies, EPA shall recognize that some States may have more stringent laws, regulations or written policies regulating the use of chemicals in the removal of oil and hazardous substance discharges, in which case such laws, regulations or policies shall govern.

2001.6 It has been determined that because of the overriding need for prompt initiation of discharge removal actions no formal permit, as provided for by Sec. 402 of the Act, shall be required before application of chemicals to mitigate the effects of a discharge. The provisions of Sec. 1510.21(f) and 1510.36(a)(3) of this Plan shall apply.

2002 Definitions

Materials applied to oil or floating hazardous substances discharges are defined as follows:

2002.1 Chemical agents are those elements, compounds, or mixtures that disperse, dissolve, emulsify, neutralize, precipitate, reduce, solubilize, oxidize, concentrate, congeal, entrap, fix, gell, make the pollutant mass more rigid or viscous, or otherwise facilitate the mitigation of deleterious effects or removal of the pollutant from the water.

2002.2 Dispersing Agents are those chemical agents which emulsify, disperse, or solubilize oil into the water column or act to further the surface spreading of oil slicks in order to facilitate dispersal of the oil into the water column.

2002.3 Surface Collecting Agents are those chemical agents which are a surface film forming chemical for controlling oil layer thickness.

2002.4 Biological Additives are microbiological cultures, enzymes, or nutrient additives that are deliberately introduced into an oil or hazardous substance spill for the specific purpose of encouraging biodegradation to mitigate the effects of a spill.

2002.5 Burning Agents are those materials which, through physical or chemical means, improve the combustibility of the materials to which they are applied.

2002.6 Sinking Agents are those materials which are applied to oil and hazardous substance spills to sink floating pollutants below the water surface.

2002.7 Mechanical removal methods include the use of pumps, skimmers, booms, earthmoving equipment, and other mechanical devices.

2002.8 Sorbents are essentially inert and insoluble materials which are used to remove oil and hazardous substances from water through a variety of sorption mechanisms. Examples include: straw, expanded perlite, polyurethane foams, reclaimed paper fibers, peat moss.

2003 Dispersing Agent Program for Spills of Oil and Applicable Hazardous Substances

2003.1 Authorization for Use of Dispersing Agents

2003.1–1 Major and medium discharges. Dispersing agents may be used in any place, at any time, and in quantities designated by the OSC when their use will:

2003.1–1.1 In the judgment of the OSC, prevent or substantially reduce hazard to human life.

2003.1–1.2 In the judgment of the EPA RRT member on a case-by-case basis, in consultation with appropriate State or Federal agencies, prevent or reduce substantial hazard to a major segment of the population(s) of vulnerable species of waterfowl; or,

2003.1–1.3 In the judgment of the EPA RRT member on a case-by-case basis, in consultation with appropriate State and Federal agencies, result in the least overall environmental damage, or interference with designated water uses.

2003.1–2 Minor discharge. The provisions of section 2003.1–1 shall apply.

2003.2 Special Restrictions on Dispersing Agent Use:

2003.3.2–1 Chemical agents shall not be considered for use as dispersing agents unless technical product data have been provided and accepted in accordance with 2003.3 except when the judgment of the OSC the hazards discussed in 2003.1–1.1 are so imminent that the time delay for obtaining a dispersant agent that is in compliance with 2003.3 would be excessive.

2003.2–2 Federal officials responsible for oil and hazardous substance spill response activities at all levels shall develop effective programs to insure that dispersants that are available for use in appropriate spill response actions are dispersants with adequate technical data on file with EPA. This effort will help preclude the avoidance of the EPA technical data program by manufacturers or suppliers who might wish to take advantage of the emergency conditions provision of 2003.2–1.

2003.2–3 For all situations where dispersants are used, accurate records shall be kept on dispersant types, brands, application rates and methods, effectiveness, environmental impacts, plus any other pertinent observations.

2003.3 Technical Product Data For Dispersing Agents

2003.3–1 Technical product data as outlined in 2003.3–4 on the physical, chemical and toxicity characteristics of a dispersing agent shall be submitted to the Oil and Special Materials Control Division (WH–548), Environmental Protection Agency, Washington, D.C. 20460, at least 60 days prior to the use of the agent. Within 60 days of receipt of the data, EPA will inform, in writing, the submitter on the adequacy of the data provided. If additional information is requested or EPA desires to perform tests, the dispersing agent may not be considered for use until the additional needs have been satisfied and the submitter so notified.

2003.3–2 Information furnished in accordance with 2003.3–4 shall be maintained on file by the Environmental Protection Agency, Oil and Special Materials Control Division, (WH–548) Washington, D.C. 20460, to provide technical guidance to OSCs on the acceptable circumstances of use and dosage rates for dispersing agents. Any changes in the composition or formulation of the dispersing agent that will affect any of the data being requested in 2003.3–4 shall be immediately brought to the attention of EPA and testing of the agent will be repeated prior to the use of the revised dispersing agent.

2003.3–3 The acceptance and maintenance of product data by EPA does not constitute approval of the dispersing agent nor does it imply compliance with any EPA criterial or minimum standards for such agents. The OSC will determine which dispersing agent may be used for a spill event on a case-by-case basis using all available information in making such a decision. To avoid possible misinterpretation and misrepresentation of the EPA's role in this technical product data program, the manufacturer's representatives may use only the EPA letter advising compliance with 2003.3–4 in any advertisements or technical literature on the dispersing agent. The EPA letter must be used in its entirety. Failure to comply with these restrictions or any other improper reference to EPA in attempting to demonstrate EPA approval of the dispersing agent for use on spills of oil or hazardous substances shall constitute grounds for removing the technical product data from EPA files, which would preclude use of the dispersing agent except as noted in 2003.2–3 for imminent hazards.

2003.3–4 Required Technical Product Data

2003.3–4.1 Name, brand, or trademark, if any, under which the chemical agent is sold.

2003.3–4.2 Name, address and telephone number of the manufacturer, importer or vendor.

2003.3–4.3 Name, address and telephone number of primary distributers or sales outlets.

2003.3–4.4 Special handling and worker precautions for storage and field application. Maximum and minimum storage temperatures to include optimum ranges as well as temperatures that will cause phase separations, chemical changes or otherwise damage effectiveness of the chemical agent.

2003.3–4.5 Shelf Life.

2003.3–4.6 Recommended application procedure(s), concentration(s) and conditions for use depending upon water salinity, water temperature and types and ages of the pollutants.

2003.3–4.7 Dispersant Toxicity—Use standard toxicity test methods described in EPA Report "Standard Dispersant Effectiveness and Toxicity Test" (EPA R2–73–201, May 1973) pages 22–34. This report may be obtained from the Oil and Special Materials Control Division (WH–548), EPA, Washington, D.C. 20460.

2003.3–4.8 Dispersant Effectiveness—Use standard effectiveness test methods in EPA R2–73–201, May 1973, pages 11–21.

2003.3–4.9 Flash Point—Select appropriate method from the following: ASTM—D 56–70; ASTM—D 92–72; ASTM—D 93–72; ASTM—D 1310–67.

2003.3–4.10 Pour Point—Use ASTM D 97–66

2003.3–4.11 Viscosity—Use ASTM D 445–72

2003.3–4.12 Specific Gravity—Use ASTM D 1298–67

2003.3–4.13 pH—Use ASTM D 1293–65

2003.3–4.14 Ionic Activity—Use Weatherburn Test as described below:

Ionic activity tests (Weatherburn Test)

Reagents: 1. Dye solution: 0.03 grams methylene blue, 12 grams concentrated sulfuric acid, 50 grams anhydrous sodium sulfate dissolved in water to make a total of one liter solution.

2. Anionic surfactant solution—0.5% Aerosol OT (Sodium dioctyl sulfo succinate).

3. Chloroform.

Procedure: 1. Into a 25 ml. test tube, place 8 ml. of dye solution and 5 ml. chloroform. Add anionic surfactants solution drop by drop, shaking vigorously between drops and allowing phases to separate. Continue adding dropwise until the two layers are equal in color and intensity viewed in reflected light. Usually 10 to 12 drops of anionic solution are required.

2. Now add 2 ml. of 0.1% solution of the unknown and shake vigorously.

Results: 1. Chloroform phase (lower) is deeper in color and aqueous phase is mostly colorless—anionic is positive.

2. Water phase (upper) is deeper in color than the chloroform phase—cationic is positive.

3. Both phases are more or less the same color—probably a nonionic.

4. If the aqueous phase has become milky and hence slightly lighter in color, it may still be nonionic. Soaps do not react in this procedure. If both anionics and nonionics are present, the reaction of this test will be anionic positive.

2003.3–4.15 Miscibility—Use the test described below which is a modification of military specification MIL–C–22230 (ships):

One part of the dispersing agent is mixed with 100 parts of synthetic sea water. The solution is agitated for one hour and any visible separation of the dispersing agent should be noted after this period of agitation. The test is to be performed with water temperatures at both 20°C and 0°C. The synthetic sea water shall be formulated as follows:

Sodium Chloride (grams)	150.0
Magnesium Chloride, hexahydrate (grams)	66.0
Calcium Chloride dihydrate (grams)	9.6
Sodium Sulfate anhydrous (grams)	24.0
Distilled water to make a total of (liters)	6.0

2003.3–4.16 Dispersing Agent Components

Itemize by chemical name and percentage by weight of each component of the total formulation. The percentages will include maximum, minimum and average weights in order to reflect quality control variation in manufacture or formulations. At least the following major components shall be identified in complying with 2003.3–4.16.

(a) Surface active agents.

(b) Solvents.

(c) Additives.

If requested by the submitter, information from 2003.3–4.16 will be handled as trade secrets under provisions of P.L. 90–23, the Administrative Procedures Act.

2003.3–4.17 Heavy Metal and Chlorinated Hydrocarbons

Using reliable analytical chemistry techniques, state the concentrations or upper limits of the following materials:

Arsenic, cadmium, chromium, copper, lead, mercury, nickel, zinc, plus any other metals that may be reasonably expected to be in the sample. Atomic absorption methods should be used and the detailed analytical methods and sample preparation shall be fully described;

Cyanide using standard colorimetric procedures;

Chlorinated hydrocarbons. Gas chromatography should be used and the detailed analytical methods and sample preparation shall be fully described.

2003.3–5 Analytical Laboratory Requirements for Technical Product Data:

2003.3–5.1 The required tests shall be performed by a qualified laboratory.

2003.3–5.2 The technical product data submission shall include the identity of the laboratory, the qualifications of the laboratory staff including professional biographical information for individuals responsible for any tests, and laboratory experience with similar tests. Laboratories performing bioassay tests for dispersant or surface collecting agent toxicity must demonstrate previous bioassay experience in order for their results to be accepted. EPA will not approve the selection of laboratories by intended submitters of technical product data prior to submission of the data. It is the responsibility of the submitter to select competent analytical laboratories based on the guidelines contained herein.

2003.3–5.3 EPA reserves the right to refuse to accept a submission of technical product data because of lack of qualifications of analytical laboratory, significant variance between submitted data and any laboratory confirmation performed by EPA, or other circumstances that will result in inadequate or inaccurate environmental information on the dispersing agent.

2004 Surface Collecting Agent Program for Spills of Oil and Applicable Hazardous Substances

2004.1 Authorization for Use of Surface Collecting Agents: Major, Medium and Minor Discharges.

2004.1–1 The OSC may authorize use of surface collecting agents on a case-by-case basis when their use will:

2004.1–1.1 Result in the least overall environmental damage or interference with designated water uses, and

2004.1–1.2 Provide a key element in the most effective system for removing oil or hazardous substances discharge from the water environment.

2004.1–2 Mechanism for authorizing use. The OSC may authorize the use of a surface collecting agent verbally when on scene or by telephone prior to arriving on scene. In all cases, the OSC is obligated to comply with the provisions of 2004.2 prior to making such authorization. A review of the capabilities and expertise of the owner or operator or cleanup contractor prior to the occurence of the spill incident would be most beneficial in situations where telephone authorization is desired or contemplated.

2004.2 Restrictions on Surface Collecting Agent Use.

2004.2–1 The OSC may authorize the use of surface collecting agents only after being informed of the environmental conditions at the point of intended use. These environmental conditions include air and water temperatures, wind conditions, wave and current conditions, presence and relative density of debris and other floating matter on the water, type and condition of the oil or hazardous substance spilled, special biological factors such as waterfowl sanctuaries, wildlife refuges, spawning or nursery grounds, shellfish beds, swamp areas, etc., and the availability of removal equipment that could be employed to remove the collected material from the water. Information on environmental conditions should be evaluated by the OSC from the standpoint that conditions such as strong winds, choppy waters, low temperatures, debris, and aquatic vegetation can adversely affect the performance of collecting agents or complicate further removal operations. The performance can also vary with types of oils or hazardous substances. The agents can be effective with thin films of light oils but have little value with thick layers of heavy, viscous oils. The agents should not be used unless adequate removal equipment is available to remove the collected oil.

2004.2–2 A chemical agent shall not be used as a surface collecting agent unless the provisions of 2004.3 are complied with and EPA has informed the manufacturer's representative that the product is acceptable for use as a surface collecting agent.

2004.3 Technical Product Data for Surface Collecting Agents.

2004.3–1 Technical product data as specified in 2004.3–4 shall be provided to the Oil and Special Materials Control Division (WH–548), EPA, Washington, D.C. 20460, at least 60 days prior to the use of the agent. The use of existing surface collecting agents may be authorized by the OSC without complying with 2004.3 for 120 days from the effective date of this Annex. Within 60 days of receipt of the data, EPA will inform, in writing, the submitter on the adequacy of the data submitted. If additional data are requested or EPA desires to perform additional tests, the surface collecting agent may not be used until these additional needs have been satisfied and the submitter so notified.

2004.3–2 Information furnished in accordance with 2004.3–4 shall be maintained on file by the EPA, Oil and Special Materials Control Division (WH–548), Washington, D.C. 20460, to provide technical guidance to OSCs on the acceptable circumstances of use, dosage rates and special problems in the use of surface collecting agent. Any changes in the composition or formulation of the surface collecting agent that will affect any of the data requested in 2004.3 shall be immediately brought to the attention of EPA and testing of the agent will be repeated prior to the use of the revised formulation of the surface collecting agent.

2004.3–3 EPA will review technical product data for surface collecting agents and will issue approvals for agents meeting certain criteria. At present, the only minimum criterion established is for solubility which is described in 2004.13. This criterion classifies the substance as a surface collecting agent but is not an indication of the effectiveness or toxicity of the material. Other product data such as toxicity, chemical components, and

physical characteristics will be reviewed and, if the combined effects of these data and other factors will result in excessive hazard to the aquatic life, work safety, or other elements of the environment in the judgment of EPA, the Agency may refuse to approve the use of the agent.

EPA may, from time to time, establish minimum criteria for the data being requested and may also require additional data to assist in arriving at a judgment on the environmental acceptability of collecting agent usage.

To avoid possible misinterpretation and misrepresentation of the EPA's role in the surface collecting agent technical product data program, the manufacturer's representatives may use only the EPA letter advising compliance with 2004.3–4 in any advertisements or technical literature on the collecting agent. The EPA letter must be used in its entirety. Failure to comply with these restrictions or any other improper reference to EPA in attempting to demonstrate EPA approval of the surface collecting agent beyond that stated in the letter for use on spills of oil or hazardous substances shall constitute grounds for removing the technical product data from EPA files which would preclude use of the surface collecting agent.

2004.3–4 Required Technical Product Data

2004.3–4.1 Name, brand, or trademark, if any, under which the surface collecting agent is sold.

2004.3–4.2 Name, address and telephone number of the manufacturer, importer or vendor.

2004.3–4.3 Name, address and telephone number of primary distributors or sales outlets.

2004.3–4.4 Special handling and worker precautions for storage and field application. Maximum and minimum storage temperature to include optimum ranges as well as temperatures that will cause phase separation, chemcial changes, or otherwise damage effectiveness of the surface collecting agent.

2004.3–4.5 Shelf Life.

2004.3–4.6 Recommended application procedure(s), concentration(s) and conditions for us depending upon water salinity, water temperature and types and ages of the pollutants.

2004.3–4.7 Surface Collecting Agent Toxicity—Use standard toxicity test methods described in EPA Report "Standard Dispersant Effectiveness and Toxicity Test" (EPA R2–73–201, May 1973) pages 22–34. This report may be obtained from the Oil and Special Materials Control Division (WH–548), EPA, Washington, D.C. 20460.

2004.3–4.8 Flash Point—Select appropriate method from the following: ASTM—D 56–70; ASTM—D 92–72; ASTM—D 93–72; ASTM—D 1310–67.

2004.3–4.9 Pour Point—Use ASTM D 97–66

2004.3–4.10 Viscosity—Use ASTM D 445–72

2004.3–4.11 Specific Gravity—Use ASTM D 1298—67

2004.3–4.12 pH—Use ASTM D 1293–65

2004.3–4.13 Interim Test to Distinguish Between Surface Collecting Agents and Other Spill Cleanup Chemicals.

In order to distinguish between surface collecting agents and other chemical materials, this interim test procedure was developed. This test procedure is not an efficiency test. It is to be used only to distinguish between surface collecting agents and dispersants.

Scope

1. Procedure to be used to determine the solubility in water under standard conditions of oil spill control chemicals.

Method Summary

2. Five (5) milliliters of the chemical under test are intimately mixed with ninety-five (95) milliliters of distilled water, allowed to stand undisturbed for one hour, and then the volume of the upper phase is determined to the nearest 1 milliliter.

Apparatus

3. (a) Mixing cylinder, 100 milliliter subdivisions and fitted with glass stoppers.

(b) Pipettes: Volumetric pipette, 5.0 millileter.

(c) Timers

Procedure

4. Add 95 milliliters of distilled water 22°C+/−3°C to a 100 milliliter mixing cylinder. To the surface of the water in the mixing cylinder, add 5.0 milliliters of the chemical under test. Insert the stopper and invert the cylinder 5 times in 10 seconds. Set upright for one (1) hour at 22°C+/−3°C and then measure the chemical layer at the surface of the water. The major portions of the chemical added (75%) should be at the water surface as a separate and easily distinguished layer.

2004.3–4.14 Surface Collecting Agent Components

Itemize by chemical name and percentage by weight each component of the total formulation. The percentages will include maximum, minimum and average weights in order to reflect quality control variations in manufacture or formulations. At least the following major components shall be identified.

(a) Surface active agents

(b) Solvents

(c) Additives

If requested by the submitter, information for 2004.3–4.14 will be handled as trade secrets under provisions of Pub. L. 90–23, the Administrative Procedures Act.

2004.3–4.15 Heavy Metals and Chlorinated Hydrocarbons

Using reliable analytical chemistry techniques, state the concentrations or upper limits of the following materials:

Arsenic, cadmium, chromium, copper, lead, mercury, nickel, zinc, plus any other metals that may be in the sample. Atomic absorption methods should be used and the detailed analytical methods and sample preparation shall be fully described;

Cyanide using standard colorimetric procedures;

Chlorinated hydrocarbons. Gas chromatography should be used and the detailed analytical methods and sample preparations shall be fully described.

2004.3–5 Analytical Laboratory Requirements for Technical Product Data: Follow stipulations in 2003.3–5

2005 Biological Additive Program for Spills of Oil and Applicable Hazardous Substances

2005.1 Authorization for use of biological additives.

2005.1–1 All discharges, the OSC may authorize the use of biological additives on water or shorelines only after obtaining the approval of the EPA representative to RRT. The manufacturer or supplier of microbiological cultures or enzymes must obtain approval from State and local public health and pollution control officials and furnish evidence of such approval to the EPA RRT representative.

2005.2 Special Restrictions on Biological Additive Use

2005.2–1 Microbiological cultures and enzyme mixtures shall not be considered for use as biological additives unless technical product data have been provided and accepted in accordance with 2005.3.

2005.2–2 The OSC must be supplied with the chemical composition and ratios of primary nutrients or nutrient additives prior to seeking approval for their use.

2005.3 Technical Product Data for Biological Additives

2005.3–1 Technical product data as outlined in 2005.3–4 on the constituents of a biological additive shall be submitted to the Oil and Special Materials Control Division (WH–548), Environmental Protection Agency, Washington, D.C. 20460, at least 60 days prior to the use of the additive. Within 60 days of receipt of the data, EPA will inform in writing the submitter on the adequacy of the data provided.

If additional information is requested or EPA desires to perform tests, the biological additive may not be used until the additional needs have been satisfied and the submitter so notified.

2005.3–2 Information furnished in accordance with 2003.3–4 shall be maintained on file by EPA to provide technical guidance to OSCs on the acceptable circumstances of use and application rates for biological additives. Any changes in the composition of the biological additive that will affect any of the data being requested in 2005.3–4 shall be immediately brought to the attention of EPA, and testing of the additive will be repeated prior to the use of the revised biological additive.

2005.3–3 The acceptance and maintenance of product data by EPA does not constitute approval of the biological additive nor does it imply compliance with any EPA criteria or minimum standards for such additives. The OSC will determine which biological additive may be used for a spill event on a case-by-case basis using all available information in making such a decision. To avoid possible misinterpretation and misrepresentation of EPA's role in this technical product data program, the manufacturer's representatives may use only the EPA letter advising compliance with 2005.3–4 in any advertisements or technical literature on the biological additive. The EPA letter must be used in its entirety. Failure to comply with these restrictions or any other improper reference to EPA in attempting to demonstrate EPA approval of the biological

additive for use on spills of oil or hazardous substances shall constitute grounds for removing the technical product data from EPA files which would preclude use of the biological additive.

2005.3–4 Required Technical Product Data

2005.3–4.1 Name, brand, or trademark, if any, under which the biological additive is sold.

2005.3–4.2 Name, address and telephone number of the manufacturer, importer or vendor.

2005.3–4.3 Name, address and telephone number of primary distributors or sales outlets.

2005.3–4.4 Special handling and worker precautions for storage and field application. Maximum and minimum storage temperatures.

2005.3–4.5 Shelf Life.

2005.3–4.6 Recommended application procedure(s), concentration(s) and conditions for use depending upon water salinity, water temperature and types and ages of the pollutants.

2005.3–4.7 Statements on the expected effectiveness of the additive including degradation rates and the test conditions and data on effectiveness.

2005.3–4.8 For microbiological cultures furnish the following information:

Listing of all microorganisms to species, [1]

Percentage of each species in the composition of the additive, [1]

Optimum pH and temperature range for use of the additive,

Special nutrient requirements, if any,

Separate listing of the following and test methods for such determinations: Salmonella, fecal coliform, Shigella, Staphylococcus Coagulase positive, and Beta Hemolytic Streptococci.

2005.3–4.9 For enzyme additives furnish the following information:

Enzyme name(s),

International Union of Biochemistry (I.U.B.) number(s),

Source of the enzyme,

Units,

Specific Activity,

Optimum pH and temperature range for the use of the additive.

2005.3–5 Laboratory Requirements for Technical Product Data: Follow stipulations in 2003.3–5.

2006 Burning Agent Program for Spills of Oil and Applicable Hazardous Substances

2006.1 Authorization for Use of Burning Agents

2006.1–1 All discharges. The OSC may authorize the use of burning agents only when they will:

2006.1–1.1 Prevent or substantially reduce imminent threats to human life, limb, or property;

2006.1–1.2 Result in the least environmental harm when compared to other removal or disposal methods.

2006.1–2 Prior to authorizing use under 2006.1–1.2, the OSC must obtain approval of the EPA RRT representative and all applicable State and local public health pollution control officials.

2006.2 Special Restrictions on Burning Agent Use

2006.2–1 The OSC will evaluate the suitability of burning agents on a case-by-case basis. Burning agents should be inert materials that will not, in themselves, be a water pollutant. The addition of oils (such as gasoline or solvents) as an igniter shall be avoided unless it is necessary under 2006.1–1.

2006.2–2 A technical data program for burning agents will not be established at this time.

2007 Sinking Agent Program for Spills of Oil and Applicable Hazardous Substances

2007.1 Authorization for Use of Sinking Agents

2007.1–1 All Discharges

Sinking agents shall not be applied to discharges of oil or hazardous substances on the navigable water of the United States or the contiguous zone.

2008 Mechanical Methods and Sorbents Program for Spills of Oil and Hazardous Substances

2008.1 Authorization for Use of Mechanical Methods and Sorbents

2008.1–1 All Discharges

2008.1–1.1 As stated in 2001.3, it is the policy of this Schedule to favor the use of mechanical methods and sorbents for removal of oil and hazardous substances spills. The OSC has the authority to use or prohibit specific mechanical methods and sorbents on a case-by-case basis. The OSC will select methods and materials that, in his judgment, will be most effective in expeditiously removing the spilled material and mitigating the related damages, and will minimize secondary pollution from the removal or mitigation operation. Prior to authorizing the use of sorbents, the OSC shall take into consideration hydrographic and meteorological conditions as well as the characteristics of the sorbent and the availability of adequate containment and removal equipment.

2008.1–1.2 A technical data program for mechanical methods and sorbents will not be established at this time.

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[1] If requested by the submitter, these items will be handled as trade secrets under the provisions of the Administrative Procedures Act (Pub. L. 90–23).